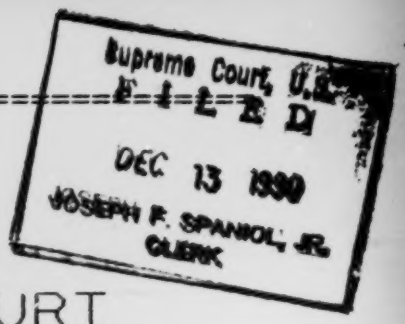
90-939

(1)



==========

NO:

IN THE

SUPREME COURT

OF THE

UNITED STATES

OCTOBER TERM 1990.

==========

VEDA NAYAK,

Petitioner (Plaintiff)

-against-

MCA, INC. et al,

Respondents (Defendants)

PETITION FOR A WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT.

VEDA NAYAK
4770, W. Bellfort,
Suite 285
Houston, TX 77035.
(713)684-6552.

==========

WRIT AND APPENDIX VOL.I

==========

EDITOR'S NOTE:

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

==========

NO:

IN THE

SUPREME COURT

OF THE

UNITED STATES

OCTOBER TERM 1990.

==========

VEDA NAYAK,

Petitioner (Plaintiff)

-against-

MCA, INC. et al,

Respondents (Defendants)

PETITION FOR A WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT.

VEDA NAYAK
4770, W. Bellfort,
Suite 285
Houston, TX 77035.
(713)684-6552.
Petitioner Pro Se

==========

WRIT AND APPENDIX VOL. I

==========

QUESTIONS PRESENTED FOR REVIEW

The Respondents' (Defendants' hereinafter) film, "THE LAST TEMPTATION OF CHRIST",(LTC hereinafter) released nationally, and internationally, profanes the Deity of Jesus Christ by assassinating his well known biblical/historical character by defamatory falsehood. The film offends his spiritual family - the Petitioner (Plaintiff hereinafter) and many others in this nation; insults and injures them; interferes with,and infringes their freedom of worship, and disturbs their quiet peace and happiness.

The Court of Appeals for the Fifth Circuit, has held in this action that trial of religious issues would violate the First Amendment that determination of certain issues of fact such as the story of Jesus would be non-justiciable. The Court of Appeals reached this decision by misapplication of authorities of this court on establishment clause and freedom

of expression. The decision of the Fifth Circuit will also be in conflict,with the decision of the Second Circuit, in a comparable case,with Plaintiff's case.

If the decision below is allowed to stand, it would provide license for any motion picture producer/ distributor to exhibit another film version to defame Christ or other well known religious leaders by defamatory falsehood. Such a license, will provide a vehicle for one religious group controlling the mass media to insult another group for profit or vendetta, and the forum of justice will be closed to resolve such disputes. To avoid these consequences, Plaintiff urges the court to decide the following questions:

(a). Whether the Defendants can claim constitutional privilege of protected speech for their alleged profanity, obscenity and defamatory falsehood of Christ in their film LTC ? And whether the

contention of the courts below that the courts may not decide on a religious issue is right under all circumstances, especially when the Constitution does not forbid judicial cognizance of offences against religion and morality, interference and infringement of others' rights?

(b). Whether a comparison of the film, LTC, with the story of Jesus from the Gospels of the Bible, to determine Defendants' offences of profanity and character assassination of Christ in the film that insults, and injures Plaintiff and others, by itself invalidate the Establishment Clause?

(c). In a multi-religious/racial society, can constitutional guarantees of "domestic tranquility" and "welfare" be assured if one religious group, using mass media, insults the religious beliefs of another group, and claims shelter under first amendment?

The following are the interested parties and persons in the case: NAYAK v. MCA, INC., et al:

PETITIONER/PLAINTIFF PRO SE:

Veda Nayak
4770, W.Bellfort, Suite 285
Houston, TX 77035.
Tel: (713)684-6552.

RESPONDENTS/DEFENDANTS:

1. MCA, INC.
100, Universal City Plaza
Universal City, CA 91608.

2. CINEPLEX ODEON Corporation
U.S.Headquarters
1925, Century Park East,
Suite 300
Los Angeles, CA 90067.

3. Ben Drummond
Manager
Spectrum Theater
2660, Augusta
Houston, TX 77057.

4. CINEPLEX ODEON Corporation
Canada Headquarters
1313, Young Street
Toronto M4T2Y9, Canada.

Respondents/Defendants represented by:

James T. McCartt
SUSMAN GODFREY
Attorneys at Law
1000, Louisiana Avenue
Suite 5100
Houston, TX 77002-5096.
Tel: (713)653-7851.

TABLE OF CONTENTS

1. QUESTIONS PRESENTED FOR REVIEW ..... (i)

2. LIST OF INTERESTED PARTIES ..... (iv)

3. INDEX OF AUTHORITIES ..... (vi)

4. GROUNDS FOR A WRIT OF CERTIORARI 1

5. STATEMENT OF FACTS 7

6. STATEMENT OF PROCEEDINGS IN COURTS BELOW 16

7. ARGUMENT: POINT I 23

8. ARGUMENT: POINT II 46

9. ARGUMENT: POINT III 56

10. CONCLUSION 61

INDEX OF AUTHORITIES

Page

1. Abington School District v. Schempp, (1963), 374 U.S. 203, 83 S.Ct. 1560 6,48

2. Arenas v. United States, 322 U.S. 419 45

3. Bindrim v. Mitchell, App., (1979) 155 Cal. Rptr. 29, (cert. denied, 444 U.S. 984) ... 6,49,51

4. Chaplinsky v. New Hampshire, (1942), 315 U.S. 568 2,32

5. City of Georgetown v. Scurry, 90 S.Ct. 346, 73 S.E. 353, ... 26

6. Constitution of the U.S:Preamble .. 58

7. Davis v. Beason, (1889), 133 U.S. 333 22,30,35

8. FCC v. Pacifica Foundation, (1978) 438 U.S. 726 4,39

9. Gertz v. Robert Welch Inc.,(1973), 418 U.S. 323 4,36

10. Herbert v. Lando, (1979), 441 U.S. 153, 99 S.Ct. 1635 4,36

10. Joseph Burstyn, Inc. v. Wilson, (1952), 343 U.S. 495 19,23,51,59

11. Kovacs v. Cooper,(1949), 336 U.S. 77, 69 S.Ct. 448 35

12. Land v. Dollar, 330 U.S. 731 45

13. Larson v. Valente,(1982), 456 U.S. 228, 102 S.Ct. 1673 3

INDEX OF AUTHORITIES(Cont'd) Page

14. Lynch v. Donnelly, (1984), 465 U.S. 668, 104 S.Ct. 1355 ..... 2,21, 34,58

15. Marsh v. Chambers,(1983), 463 U.S. 783, 103 S.Ct. 3330 3,32

16. Miller v. Cal, (1973), 413 U.S. 15 40

17. The People v. Ruggles, (1811 NY), 8 Johns, 290 3,25,26,38

18. Roth v. United States 354 U.S. at 476 40

19. Rowan v. Post Office Dept., 397 U.S. 728 39

20. Saranoff et al v. Claglia, (1947), 165 F.2d 167 45

21. Schneck v. United States, 249 U.S. 47 36

22. State v. Mockus,(1921), 120 Me 84, 14 A.L.R., 871 3,26,48

23. Times Film Corp. v. Chicago, (1961),365 U.S. 43 55

24. United States v. Ballard,(1944), 322 U.S. 78 19,21,22,41,43

25. Watson v. Jones, (1871), 13 Wall 679 22,41

26. Williford v. People of California, (1965), 352 F.2d 474 45

27. Winters v. New York,(1948), 333 U.S., 507 21

28. Zorach v. Clauson,(1952), 343 U.S. 306 3,21,60

GROUNDS FOR A WRIT OF CERTIORARI

This Writ for Certiorari to review the Vth Circuit judgment dated September 17, 1990, Page 1-5 of the Appendix, is filed under Rule 10(1)(c) of the Supreme Court rules. The District Court, Texas Southern District, Houston Division, dismissed summarily the Plaintiff's complaint under Rule 12(b)(6), and the Court of Appeals affirmed that judgment, holding that the trial of religious issues raised by the Plaintiff, who sought to enjoin Defendants film, THE LAST TEMPTATION OF CHRIST, would violate First Amendment, and that interpretation of the life of Christ is not a justiciable issue.

Plaintiff's Writ of Certiorari for the Vth Circuit rests on the following grounds:

(1). Trial of profanity of the Deity of Christ by defamatory falsehood in Defendants' film, that insults and injures; interferes and infringes on the freedom of worship and religion of the

Plaintiff and others of Christian persuasion in this nation, will not violate First Amendment.

The film LTC is an exposition of "profane and libelous, lewd and obscene" matter which assassinates falsely, the character of Jesus Christ. Comparison of selected elements of profanity in the film with the New Testament appears at page 289-297 of the Appendix. Such speech has been held by the Supreme Court as "no part of any exposition of ideas" and have no redeeming social value. Any benefit that may be derived from that is "clearly outweighed by the social interest in order and morality." Chaplinsky v. New Hampshire,(1942), 315 U.S. 568, 571-572.

The contention of the courts below that no court may decide on a religious issue is in error, since the Constitution does not forbid judicial review of disputes that have religious significance: Lynch v. Donnelly,(1984),465 U.S. 668,

678, 104 S.Ct. 1355, 1362 (In determining whether governmental activity violates establishment clause, inquiry calls for line drawing, no fixed per se rule can be framed); Marsh v. Chambers,(1983), 463 U.S. 783, 103 S.Ct. 3330 (Prayers in State legislature offered by paid chaplains is not establishment of religion); Zorach v. Clauson,(1952), 343 U.S. 306, 313, (We are a religious people whose institutions presuppose a Supreme Being.); Larson v. Valente,(1982), 456 U.S. 228, 102 S.Ct. 1673, (Constitutional guarantee does not discriminate against a particular church.)

Also, the establishment clause is no bar against those offences that are against religion and morality: The People v. Ruggles, (1811 NY), 8 Johns at 296, and the first amendment will not be invalidated for punishment of common law offences such as profanity of Deity: State v. Mockus,(1921), 120 Me 84, 14 A.L.R. at 877-878. Both these cases cited, Supra,

profaned and defamed Jesus Christ, similar to Defendants' film.

Profanity and character assassination of Jesus Christ in Defendants' film LTC, Pages 289-297 of the Appendix that offends the Plaintiff and other people of Christ, has no protection under First Amendment because it is false, and such false statement of facts has no constitutional value, and carries no first amendment protection, Herbert v. Lando, (1979), 441 US 149, 153, 99 S.Ct. 1635, 1636; Gertz v. Robert Welch Inc.,(1973), 418 U.S. 323 at 340, 94 S.Ct. at 3007.

Profane and obscene material has no value as speech, has no constitutional protection and has been determined to be especially harmful to the morality and well being of minor children: FCC v. Pacifica Foundation, 438 U.S. 726 at 748-749. Telecommunications transmission of obscenity in Defendants' film involving a minor child: Page 295-296 of the Appendix,

which can be seen by young children on video, cable and T.V., will corrupt the morals of those children. Such broadcasts worldwide can corrupt greater number of young children, whether they are Christian or not, as the film shows Jesus Christ, the Savior of mankind as immoral and a sinner.

(2). The Vth Circuit's contention that interpretation of the story of Christ is non justiciable, Page 5 of the Appendix, is also an error. First, Plaintiff has not specifically asked the court to make such an interpretation. Plaintiff submits that there is no need to make one as the Bible is the standard of truth as far as the story of Jesus is concerned, and the Gospels lay out his story clearly. Therefore, such a well structured and well written story from the King James version, for example, can be compared by a jury with the Defendants' film, to determine alleged offences of the Defendants. Study

of the Scriptures for educational or research purposes is not forbidden by the Establishment Clause. In Abington School District v. Schempp,(1963), 374 U.S. 203, 225, 83 S.Ct. 1560, 1573, although the Supreme Court struck down the practice of Bible readings in public schools, it did not invalidate study of the scriptures for educational or comparative religious study purposes. Such comparison which by task is a secular exercise, to facilitate a fair trial, will not by itself amount to establishment of a religion. Also in Bindrim v. Mitchell, App., 155 Cal. Rptr. 29, (cert. denied, 444 U.S. 984), the Court of Appeals, 2nd Circuit, held that obscenity with defamatory falsehood was a punishable offence, which is comparable to the obscenity elements in the Defendants' film, LTC. In Bindrim, Supra, comparisons were made by a jury between two characters,Bindrim and a fictitious character from the book, "Touching", to

determine defamatory falsehood, e.g., Pages 298-300 of the Appendix. Therefore, a comparison between the film character of Jesus and the Bible character of Jesus, by a Jury, would not invalidate the Establishment Clause.

STATEMENT OF FACTS

This case was filed with a request for JURY TRIAL in the United States District Court, Southern District of Texas, Houston division; Case No: 2965, filed on August 10, 1989, under the First, Fifth and fourteenth Amendments to the Constitution and other fundamental rights of the Constitution Jurisdiction was asserted under Title 28 U.S.C. #1392, based on diversity of citizenship.

PARTIES: Plaintiff Veda Nayak is an individual residing and doing business in Harris County, Texas. Defendant MCA, INC. is a corporation organized under the laws of the State of California. Defendant MCA, INC. is the owner or parent company of

Universal Pictures and Universal Pictures International, which make and distribute motion pictures in the United States and abroad. Defendant Cineplex Odeon Corporation (USA) is also a corporation organized under the laws of the State of California, and is in the business of financing, distributing and exhibiting motion pictures. Defendants MCA, INC and CINEPLEX ODEON (USA),(Principal Defendants hereinafter), produced and distributed the film, "THE LAST TEMPTATION OF CHRIST" (LTC) in the U.S. and other countries abroad, beginning from August,12, 1988. Defendant Cineplex Odeon (Canada) is a corporation organized under the laws of the State of Ontario, Canada, who owns a number of movie theaters in the U.S. and Canada, which exhibited the film, LTC in some theaters. Defendant Ben Drummond was an employee of Defendant Cineplex Odeon (Canada) and was Manager of Spectrum

Theater in Houston, Texas, where the film was exhibited.

THE FILM CONTROVERSY: The disputed film, LTC, which starred Willem Dafoe and Barbra Hershey, and directed by Martin Scorcese was shot on location in Morocco. To suppress the identity of the film, Principal Defendants titled the film, THE PASSION during location shooting. By about the middle of 1988, the real title of the film, LTC, came to be known, when widespread objections to the film arose from the Christian public and leaders from all parts of the U.S., some of whom had access to the script of the film, which apparently profaned and defamed Christ falsely by character assassination. Afraid of possible injunctions, but bent on releasing the objectionable film, Principal Defendants moved the date of release of the film from September, 1988 to August,1988, which further infuriated the Christian public. When the film was

finally released in the U.S. on August 12, 1988, there was a furor of protest and demonstrations in the cities where the film was released. Press reports, Pages 6-33 in the Appendix summarize the social unrest brought about by the offending film.

THE CONTENTS OF THE FILM: Plaintiff, a Christian by religious faith, saw the film and was deeply offended and injured by the film, which was an expression of woeful obscenity, an outrageous profanity and a shameful slander of Christ. The film begins with a blasphemous introduction of Jesus as a traitor, making crosses for the Romans to crucify his own people, a man so demented that he throws himself down with violent fits, a crazy man who hears strange voices, a confused, fear ridden man who has a very low opinion of himself. Who apparently pushed his childhood love, Mary Magdalene, into harlotry because he would not dare to marry her. It was all

too late when he meets her at her brothel, where he witnesses Magdalene in the midst of a violent sexual orgy with men of all nations. Magdalene makes Jesus feel guilty for her lot, and he asks her forgiveness, which she refuses to give, and she despises him.

Jesus' confusion and cowardly spirit continues through his association with his raggedy band of disciples of whom Judas is portrayed the more daring and zealous. Jesus shows his aversion to the voice of God that speaks to him, and wants God to hate him and often behaves as though he was possessed by an evil spirit. While staying in an ascetic community, Jesus confesses to a man that he was a liar, a hypocrite and possessed by Lucifer, who told him that he was the son of God, God himself. Jesus doesn't even know clearly, his own mission, and rambles through a rough and dream like life with sporadic

miracles, quite ignorant of the source of his own powers.

It's only at the Jerusalem Temple, before the Passover, Jesus seems to gain some strength to do a courageous act and throws out the money changers and the merchants, which gives some confidence to Judas that Jesus may well be the Jewish messiah. But this vanishes when Jesus implores Judas to betray him so that he may die and fulfil the Old Testament prophecies. And Jesus confesses to Judas that his death will pay for his own sins!

The most glaring profanity and obscenity happens in a half-hour sequence when Jesus, in a dream, walks out of the cross from Golgotha where he is crucified, and enters into a fantasy land to do what was always in his mind and that was, to make love to Mary Magdalene, skin to skin and body to body, with a child of 10 years old, an angel, watching the sexual scene, which Jesus permits! Magdalene dies

thereafter and Jesus meets Mary and Martha, the sisters of Lazarus. He marries Mary and has children by her. Then one day, when Mary was out, he commits adultery with her sister Martha, and all of them live together. Jesus seems to love this polygamous life and he fathers more children when suddenly, he is taken by the angel back to the cross and there he dies, followed by nothing. No resurrection and no ascension.

The film degrades Jesus, as a man with serious mental problems, who hardly knew his divine connection, a man so reluctant to shoulder his messianic responsibility. Unlike the gospels of the Bible which reveals GOD becoming man and leading a perfect, sinless life, the film LTC shows Jesus as an imperfect man struggling to become something which he doesn't even know. Instead of asserting that he is a savior of sinners as the Scriptures say, he is characterized as a

sinner himself by his own confession. To prove his sinful nature through his own mind, the final scenes of the film show Jesus as a man of flesh revelling in low sexual passions and adultery, thus demolishing the biblical honor accorded to him: the Savior, the Spirit of truth and the Son of God.

PUBLIC REACTION TO THE FILM: Selected opinion of this film may be relevant here to show how people who viewed the film or read the script felt about the profanity and character assassination of Christ in this film; some of them taken from newspaper reports. Extracts at Pgs 6 to 33 of the Appendix.

> "The Jesus depicted in this movie is not the Jesus of the Bible." (Oliver Milton, Woodland Hills, CA.)
>
> "A movie company that would dare to make fun of the Creator of the Universe." (Roosevelt Grier, former football star.)

"Human decency and ethical standards should keep all people respecting each others' religions." (Dr. Maher Hathout, Islamic Society.)

"Damaging to the image of Christ. He cannot be made the object of low fantasies " (Franco Zefferelli, Italian film director.)

"Neither the label 'fiction' nor the First Amendment gives Universal the right to libel, slander and ridicule the most central figure in world history." (Jerry Falwell, Lynchburg, VA).

"It's the most serious mistake a studio has made in decades."(Tim Pinland, ex Public Relations consultant to MCA, INC.)

"As for THE LAST TEMPTATION OF CHRIST, the first commandment given by God concerns the honor to be accorded God who warns: "Thou shalt have no other gods before me " Whatever Gods

the producers of this vile movie were serving (the God of the fast buck, whose shrine is the box office?), their blasphemous assault on God's only begotten son offends God and should offend all decent minded men." (Senator Jesse Helms, letter dated September 21, 1989, from Senator Helms to the Plaintiff, Page 31-33 of the Appendix.)

STATEMENTS OF PROCEEDINGS IN COURTS BELOW

In his complaint to the District Court which requested a Jury trial, Pages 34 to 77 in the Appendix, Plaintiff detailed selected profanity of the film by defamatory falsehood of the character of Jesus Christ, alleged interference and infringement of freedom of worship and religion, and resultant injury to Plaintiff and other people of Christ. Plaintiff submitted that such assassination of the character of Christ was with malice, as it was carried out by a group of people of Jewish faith, who are

opposed by tradition to Christian faith, who by and large controlled the Defendants' companies, and who knew the film was false. Plaintiff also alleged the harm, confusion and demoralization that such a film can have on minor children in Christian families, who may happen to see the film in non-theatrical media, as the Defendants were releasing the film through video, TV and cable. Plaintiff prayed to enjoin the Defendants' film in all media, in all territories of the world through a permanent injunction. Plaintiff submitted an Affidavit to the District Court on December 19, 1989, affirming the principal elements of the complaint to be true, Pages 142-150 of the Appendix.

Defendants filed a motion to dismiss Plaintiff's complaint in the District Court on November 29, 1989, under Rule 12 (b)(6); Pages 95-103 of the Appendix. In their motion to dismiss, the Defendants did not deny Plaintiff's substantive

allegations of defamatory falsehood of Deity, and resultant injury to the Plaintiff and other people of Christ. But they included an allegation which the Plaintiff did not allege, and that was, that Plaintiff said the film was "sacrilegious," Page 95 of the Appendix. Defendants held that it would violate the Constitution for any court to try the case, that the Plaintiff read the Bible one way and asserted that the film's interpretation of the life of Christ was different. that it defamed Christ and God, and that in order to resolve the Plaintiff's claim, the Court would have to determine the true story of Christ. Defendants claimed that courts may not decide religious issues and that Plaintiff's claim is non-justiciable.

Plaintiff filed a response to Defendants' Motion to Dismiss, Pages 104 to 141 of the Appendix, that Defendants' petition to dismiss cannot be held on

constitutional grounds. Plaintiff distinguished that his basic assertions in his complaint were "issues of fact" and not of "opinion," which only a trier of fact can determine, and therefore may not be disposed of on a summary basis. Plaintiff asserted that he did not say the film was a "sacrilege" as sacrilege did not relate to the Deity person, but to sacred things: Joseph Burstyn, Inc. v. Wilson (1952), 343 U.S. 495, 523-524, but reiterated that the film was a defamatory falsehood. Plaintiff asserted that he did not subscribe to a particular theology, and did not read the Bible one way. Plaintiff said that he relied on the standard of truth which is the Gospel and the Bible, which reveals the defamatory falsehood of Defendants' film. Plaintiff also distinguished that the two main citations quoted by the Defendants, United States v. Ballard, 322 U.S. 78 and Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495 were

misplaced and inapplicable to the Plaintiff's case. He also refuted Defendants' claim that Plaintiff was not entitled to any relief under Texas defamation law, as Jesus Christ was dead and Plaintiff was not claiming defamation to his own reputation. Plaintiff claimed that Jesus Christ was not dead and was alive. Christ, the Creator of the Universe was indeed alive and he was his Spiritual Father, and that Texas state law was not applicable to him. Plaintiff gave citations in his favor for jury trial on issues of fact: Pages 137-141 of the Appendix.

The District Court dismissed Plaintiff's complaint on a summary basis without a hearing and without an opinion, Page 151 of the Appendix, whereupon the Plaintiff appealed to the Court of Appeals, Vth Circuit on April 7, 1990: Plaintiff's Brief in Appendix, Page 152-218. Plaintiff's main argument was that

the lower court erred in holding Defendants' plea that it would violate the Constitution for any court to try his case. Plaintiff claimed that a trial of his case would not invalidate the establishment clause and cited: Winters v. New York,(1948), 333 U.S., 507, 515 (Acts of gross and open indecency or obscenity, injurious to public morals, are indictable at common law); Lynch v. Donnelly,(1984) 465 U.S. 668, 674 (Constitution mandates accommodation of all religions); Zorach v. Clauson,(1951), 343 U.S. 306, 312-315 (No callous indifference to religious groups and no partiality to one group). Plaintiff pointed out that Defendants' film was contrary to the spirit of religious tolerance mandated by Constitutional law, Lynch, Supra, and that the Establishment Clause can be no bar to try Plaintiff's case, again quoting Lynch v. Donnelly, Supra, Pages 674-678. Plaintiff also challenged U.S. v. Ballard,(1944) 322 U.S.

78, 86-87, and quoted Davis v. Beason, (1889), 133 U.S. 333, 342, which restricted freedom of religion that infringed on laws of morality and common law, Pages 199-200 of the Appendix. The Defendants reply brief was a repetition of their pleas at the District Court, Pages 219-234 of the Appendix. On September 17, 1990, Chief Judge Clark of the Vth Circuit delivered the opinion, Page 1-5 of the Appendix, affirming summary judgment of the District Court. The opinion held that (a) trial of religious issues would violate the First Amendment, quoting Watson v. Jones, (1871), 13 Wall 679, 728. (Law knows no heresy and supports no sect) and United States v. Ballard,(1944) 322 U.S. 78, 86, 64 S.Ct. 882, 886, 88 L. Ed 1148 (1944). (Right to freedom of thought and belief and that heresy trials are foreign to our Constitution.)

(b). The Plaintiff asked the court to decide the correct interpretation of the

life of Christ,which is not a justiciable issue. The Vth Circuit cited Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495, 505, 72 S.Ct. 777, 782, 96 L. Ed, 1098 (1952). (It is not the business of government to suppress real or imagined attacks upon a particular religious doctrine.)

ARGUMENT I

Trial of Defendants' alleged offences in the film, LTC that are against Deity, religion and morality that insult and injure the Plaintiff, and many others in this nation will not invalidate the Establishment Clause.

A.

As mentioned above, Defendants have not denied, both in the District Court and the Court of Appeals, Plaintiff's allegations of profanity and defamatory falsehood of the film, LTC, and resultant insult and injury, interference and infringement of freedom of worship of

Plaintiff and others, included in the original complaint by way of excerpts from the film and biblical passages that compare the assassinated character of Christ in LTC with the biblical character of Christ: Pages 45-59, 78-94 of the Appendix. A direct comparison of glaring profanity and obscenity in the film is included in Appendix, pages 289-297, Supra, which compares excerpts from Defendants' film LTC, with the New Testament of the Bible. The major elements of profanity and obscenity in the film, LTC, which constitute character assassination are:

(a). Jesus the traitor (b). Jesus who is ignorant of his own mission and who fights God, the Father (c). Jesus asking forgiveness for moral turpitude (d). Jesus Christ possessed by Lucifer and is a liar (e) Jesus confesses that he is a sinner and says he will die for his own sins (f).

Jesus fulfills his lust with Mary Magdalene (g). Jesus commits adultery.

B.

Definition of Profanity: In West's Words and Phrases, Profanity is defined as a form of Blasphemy. "Profane" is defined as the use of words denoting irreverence of God and holy things, blasphemous. "Blasphemy consists of maliciously reviling God or religion, wantonly, wickedly and maliciously uttering in the presence of others, the words, "Jesus Christ was a bastard,", etc: The People v. Ruggles, (1811 NY), 8 Johns 290, 292, 5 Am Dec. 335. The offence under Rev.Stat.chap. 126, Sec 30 can be committed either by using profusely reproachful language against God or by contumeliously reproaching Him, His creation, government, final judgment of the world, Jesus Christ, the Holy Ghost or the Holy Scriptures as contained in the canonical books of the Old and New Testament, or by exposing any

of these Beings or Scriptures to contempt or ridicule, and it is not necessary to prove the doing of all of the offences: State v. Mockus, (1921), 113 A. 39, 120 Me 84, 14 A.L.R., 871. Also in City of Georgetown v. Scurry, 90 S.Ct. 346 73 S.E. 353, 354, the Supreme Court said "It is true that profane language is irreverent toward God or holy things." Also, a definition of Christianity gives a historical perspective of the offence of profanity; See Pages 301-304 of the Appendix.

C.

In spite of many offenders who claim that punishment against profanity and blasphemy violated their freedom of speech or freedom of religion, courts have held that such speech was offensive at the common law. Chester J. Antieau, Freedom of communication and Religion: Section 1:47 Vol 1, Pg 79-80.

(1). **Profanity and Blasphemy of Christ are common law offences:** In State v. Mockus,(1921), 120 Me. 84, 14 A.L.R at 876-877, Michael X. Mockus profaned,and blasphemed Jesus Christ and the Holy Scriptures. Mockus was punished for his profanity,and blasphemy on the birth of Christ and the Bible, and his reviling against God and religion. The Maine Supreme Court held that such profane speech was offensive and was not protected by the first amendment. It said:"It is farthest from our thought to claim superiority for any religious sect, society, or denomination, or even to admit that there exists any distinct, avowed connection between church and state in these United States or in any individual state; but, as distinguished from the religions of Confucius, Gautama, Mohammed, or even Abram, it may be truly said that, by reason of the number, influence, and station of its devotees within our

territorial boundaries, the religion of Christ is the prevailing religion of this country and of this state. With equal truth may it be said that, from the dawn of civilization, the religion of a country is a most important factor in determining its form of government, and that stability of government in no small measure depends upon the reverence and respect which a nation maintains toward its prevalent religion..... In view of all these things, shall we say that any word or deed,which would expose the God of the Christian religion, or the Holy Scriptures, 'to contempt and ridicule,' or which would rob official oaths of any of their sanctity, thus undermining the foundations of their binding force, would be protected by a constitutional religious freedom whose constitutional limitation is non disturbance of the public peace? We register a most emphatic negative. "

The Maine Supreme Court said further, Page 877, Mockus Supra, that such profane speech will not amount to any serious or decent discussion of a religious topic, and therefore, was not entitled to any protection under the Constitution. So also, Plaintiff submits, the Defendants film is neither a serious nor decent discussion of facts, and its protection will violate laws of morality,and the constitutional purpose of reverence to Deity and respect to all religions.

(ii). Establishment Clause no bar to punish common law offences: The First Amendment to the Constitution forbids a union between church and state, but does not sanction offences against religion or morality, as seen in Mockus, Supra. This principle,can be traced from earlier times to more recent times in this Republic, especially,on the issue of profanity. In The People v Ruggles, (1811 NY), 8 Johns at 296, Chief Justice Kent of the New York

Supreme Court said: "Though the Constitution has discarded religious establishments, it does not forbid judicial cognisance of those offences against religion and morality, which have no reference to any such establishment, or to any particular form of government, but are punishable because they strike at the root of moral obligation, and weaken the securities of social ties." This principle of freedom with respect for others' rights and laws of society and morality continued in this Republic. And in Davis v. Beason (1889), 133 U.S. 333 at 342, the Supreme Court said that the first amendment was intended to provide everyone religious freedom in the personal belief, and worship of Almighty God, and to "exhibit his sentiments in such forms of worship not injurious to the equal rights of others." The Court said further that it was the oppressive measures adopted by governments in Europe, for many years, to conform to

certain pattern of worship and religious belief that led to the adoption of the amendment in question. But it was not intended that, "the amendment could be invoked as a protection against legislation for the punishment of acts inimical to the peace, order and good morals of society." While no interference in individual religious freedom may be permitted, it is still subject to the "laws of society, designed to secure its peace and prosperity, and the morals of its people" It is thus clear that any dispute that arises outside the realm of personal religious freedom, such as those that are "injurious to the equal rights of others" and that which "violates the laws of society, designed to secure its peace, and prosperity and morals of its people" is naturally justiciable, and Plaintiff's case falls in this category.

The constitutional principle of freedom with restraint, continued over the

years, and the Supreme Court held in Chaplinsky v. New Hampshire,(1942), 315 U.S. 368, 571-572 that punishment of certain speech will be no bar to the Establishment Clause, such as "the lewd and the obscene, the profane and the libelous, insulting or 'fighting' words, those which by their very utterance inflict injury or tend to incite an immediate breach of the peace", and therefore, such speech would not be protected by first amendment, and would be regulated in the interest of social order and morality.

Plaintiff submits that the offensive expressions in Defendants' film, constituting assassination of character of the sacred Deity of Jesus Christ, has inflicted injury to the Plaintiff and many others of the family of Christ in this nation, and Defendants have no privilege to do so under the first amendment.

(iii). Religious issues per se no bar to Establishment Clause: More recent cases decided by the Supreme Court invalidate the claim that trial of religious issues raised by the Plaintiff are non-justiciable. In Marsh v. Chambers, (1983), 468 U.S. 783, the Supreme Court heard an establishment issue,and allowed paid chaplains to say prayers in the Nebraska legislature,and invalidated a claim from a non-Christian interest that such prayers constituted establishment of religion. The Supreme Court, in deciding this case, reviewed the religious heritage of this nation, going back to over 200 years, when paid chaplains were appointed by the first Congress after declaration of independence.

Plaintiff submits that applying this principle of preserving constitutional traditions, the sanctity of the Bible is of prime importance, which most people in this nation hold as the truth; as the word

of God, and it is the source of most civil codes, and the governing principles of community life and personal conduct. It is this sacred book that has been slighted and ridiculed by a gross misrepresentation of the life and times of Jesus Christ by the Defendants in their film, which is an offence to this nation as a whole.

In Lynch v. Donnelly, (1984), 465 U.S. 668, 678, the Supreme Court, further expanded the flexibility in dealing with establishment issues, especially, where it relates to religious heritage, and culture that have a bearing on secular goals of government, and the need to preserve time honored traditions that have assured public service and welfare without any conflict. The Supreme Court favored line drawing on establishment issues on a case by case basis, and that an "absolutist approach" in applying the Establishment Clause is "simplistic and has been uniformly rejected by the Court."

Plaintiff submits that the courts below have adopted a rigid line in deciding that just because the issue related to a religious figure, it automatically meant establishment of religion, without probing into the merits of the case, especially alleged common law violations by the Defendants

(iv). Infringing others' rights: Besides Davis v. Beason, (1889), 133 U.S. 333 at 342, id. at pg 30, the Supreme Court has also confirmed the principle that right to speech is not absolute when it interferes with others' rights to freedom of worship and religion: Kovacs v. Cooper,(1949),336 U.S. 77, 88, 69 S.Ct. 448, 454: "To enforce freedom of speech in disregard of the rights of others would be harsh and arbitrary in itself."

(v). False Speech unprotected: Defendants' film LTC is a false story designed to propagate a religious view that the God of the Christians was a sinner and he is no

savior of sinners, which is contrary to biblical truth. Defendants have no basis to say this, and they well know that they cannot substantiate such an outrageous lie and blasphemy. The Supreme Court has held that such defamatory falsehood has no protection under first amendment:

(a) "The most stringent protection of free speech would not protect a man in falsely shouting fire in a theater and causing panic..." Justice Holmes in Schneck v. United States, 249 U.S. 47, 52.

(b) "There is no constitutional value in false statements of fact." Gertz v. Robert Welch, 418 U.S. 323, 340

(c) "Those who publish defamatory falsehoods,with the requisite culpability, however, are subject to liability, the aim being not only to compensate for injury but also to deter publication of unprotected material threatening injury to individual reputation." Herbert v. Lando,

(1979), 441 U.S. 153, 172 and 99 S.Ct. 1635, 1646.

A comparison of the Defendants' film, with the well known story of Jesus, from any one of the Gospels will show that the film is a defamatory falsehood and therefore, has no first amendment protection.

(vi). Effect of obscenity on young children: The film LTC is also an attempt to exploit commercially, by a false and obscene exposition of the sexuality of Jesus, with the involvement of a minor child. A ten year old child in the film, supposed to be an angel, sees Jesus having sex with Mary Magdalene.

Such a film would corrupt not only young Christian children, but also any child, whether, in this nation or any other nation, where, this film will become available, because, it carries a subtle message to children that it is all right to lie, to sin, and to commit adultery

because, a great man like Jesus did all of it. The film also promotes a dubious sense of values that greatness doesn't have to go with all the virtues it demands. Exposing young children to such profanity was condemned in The People v. Ruggles, (1811 NY), 8 Johns at 294-295; the New York Supreme Court said: "We stand equally in need, now as formerly, of all that moral discipline, and of those principles of virtue, which help to bind society together. The people of this state, in common with the people of this country, profess the general doctrines of christianity, as the rule of their faith and practice; and to scandalize the author of these doctrines is not only, in a religious point of view, extremely impious, but, even in respect to the obligations due to society, is a gross violation of decency and good order. Nothing could be more offensive to the virtuous part of the community, or more

injurious to the tender morals of the young, than to declare such profanity lawful."

More recent decisions of the Supreme Court, have also declared that such obscenity is unlawful, and injurious to the moral welfare of young children. In FCC v Pacifica Foundation, (1978), 438 US 726 at 748-749, the Supreme Court said: "Patently offensive, indecent material presented over the airwaves confronts the citizen, not only in public, but also in the privacy of the home, where the individual's right to be left alone plainly outweighs the First Amendment rights of an intruder. Rowan v. Post Office Dept., 397 U.S. 728."

Defendants' film through cable, TV and video, will expose young children to obscenity that may be demoralizing, since what they have learnt about Jesus in their Sunday school would be so different from what they would see on the TV screen about

Christ, and can set up an unnecessary conflict in their impressionable minds. Which version would they believe? And why should their God be shown in such dim light over the air waves? This might lead to anti-racial or religious feelings in the minds of these young Christian children against those who profaned their cherished Savior and friend of their childhood - a social repurcussion that may be unhealthy, and detrimental to the welfare, peace and happiness of all people in this Republic.

In general, obscenity is not protected speech under the First Amendment and is punishable by common law: Roth v. United States 354 U.S. at 476, (Profanity and obscenity were related offences); Miller v. Cal, (1973), 413 U.S. 15, 30. Plaintiff submits that applying Miller's Test, prescribed in Miller, Supra, the Defendants' film may very well pass the test for obscenity, as it profanes and

degrades the God of the Christians, in repulsive sexual acts and offensive characterization. The film is a defamatory falsehood, and has no redeeming social value.

D.

DISTINGUISHING COURT OF APPEALS CITATIONS:

The Court of Appeals, Vth Circuit, in affirming the District Court's summary dismissal of Plaintiff's complaint, cited Watson v. Jones, (1871), 13 Wall 679, 20 2. Ed 666 and U.S. v. Ballard, 322 US 78, 86; 64 S.Ct 882, 886, 88 L.Ed 1148(1944), to substantiate its decision that no court can try Plaintiff's case that raises a religious issue. See Appendix, Pages 1-5.

(1). Watson v. Jones, (1871), 13 Wall 679 supra, is a church property dispute brought about by dissensions within the Kentucky Presbyterian church, which came to civil courts for arbitration. This has no relevance to the Plaintiff's case, as neither the Plaintiff, nor the Defendants,

were at anytime a part of the same church, or denomination, or sect. In fact, Plaintiff and majority of the principal officers of Defendants belong to two different faiths: Christianity and Judaism. The cited reference by the Court of Appeals thus has no significance to the Plaintiff's case, as he has no such property dispute with the Defendants. Besides, none of the parties in Watson slandered or profaned the Deity, and there was no issue of first amendment privilege or abuse of it in that case. To get the proper context and limitations of the citation, Supra, it would be necessary to read a greater part of that citation. But the following extract may suffice, Watson, Pg 728-729: "In this country the full and free right to entertain any religious belief, to practice any religious principle and to teach any religious doctrine which does not violate the laws of morality and property, and which does

not infringe personal rights, is conceded to all. The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect. The right to organize voluntary religious associations to assist in the expression, and dissemination of any religious doctrine, and to create tribunals for the decision of controverted questions of faith, within the association, and for the ecclesiastical government of all the individual members, congregations, and officers within the general association, is unquestioned." Therefore, this citation is misplaced and is not relevant to Plaintiff's case. Further, the citation does not grant open license to even doctrinal speech, and it places a requirement that it "does not violate the laws of morality and property, and which does not infringe personal rights." It is the latter part, namely the law of morality and personal rights, which the

Defendants allegedly have violated. Plaintiff submits that as cited earlier,, offences against religion and morality are outside the protection of first amendment.

(ii) The other citation quoted by the Court of Appeals, U.S. v. Ballard, 322 U.S. 78, is also misplaced and is not applicable to the Plaintiff's case. Although, Ballard deals with the establishment issue, it is from the point of the U.S. government's entanglement and interference with a particular religious sect. In Ballard, as in Watson discussed above, there was no issue of profanity and defamatory falsehood of Deity, with resultant infringement of rights to worship, and insult and injury to people. The main issue in Ballard was infringement by the U.S. government of certain strange beliefs held by the Ballard sect, and the Supreme Court held against such government intervention in religious affairs. If Ballard were guilty of common law

offences, and if they infringed upon others' rights, then the establishment clause would not have been a bar to punish such offences. Ballard's case is not comparable to Defendants. Neither the issues are similar, and therefore, the citation is not quite relevant.

E.

SUMMARY DISMISSAL: Plaintiff also submits that summary dismissal of Plaintiff's petition by the District Court, which was affirmed by the Court of Appeals, is inconsistent with the decisions of the Court of Appeals, 2nd Circuit and the Supreme Court: Williford v. People of California, (1965), 352 F.2d 474; Saranoff et al v. Claglia, (1947), 165 F.2d 167; Land v. Dollar, 330 U.S. 731; and Arenas v. United States, 322 U.S. 419. In all these cases, summary dismissal was considered inappropriate when there were genuine issues of material fact involved, which needed to be determined by a jury.

And there are quite a few issues of fact in Plaintiff's case that will have to be determined by a jury, such as specific identification of profanity and obscenity in the film, extent of insult and injury to the Plaintiff and others, etc.

To conclude, the facts of the case and applicable citations discussed above, show that the courts below were in error, in holding that the religious issues posed by Plaintiff's case are non-justiciable, especially in the context of Defendants' alleged violation of the common laws against Deity, religion, and morality, and infringement of others' constitutional rights, by insult and injury.

II.

Comparison of Jesus' story from the Gospels with the Defendants' film,LTC, to determine Defendants' common law offences against Deity, religion, and morality,and infringement of Plaintiff and others' fundamental rights, would

not invalidate the establishment clause, and therefore, the Plaintiff's case is justiciable.

A

The Defendants, in their Reply Brief to the Court of Appeals, Vth Circuit, Appendix, Page 226, stated that the Plaintiff "reads the Bible one way." This implies that the Defendants read the Bible in another way, and that way comes to focus in their film LTC, which assassinates the character of Jesus Christ. As submitted earlier, the Establishment Clause will not be invalidated in order to determine alleged profanity and other offences of the Defendants by their film LTC, page 27-49, Supra. A comparison of the Gospel story of Jesus and the Defendants' film, is to resolve issues of fact in this case. And the Bible* is the standard of truth on

---

*: Definition of the Bible, Pages 305 to 306 of the Appendix.

which the sanctity of official oaths rest: State of Maine v. Mockus, 14 A.L.R., 877, Supra. Such a comparison, between the Gospels and the film, purely for analytical purposes would not amount to establishment of any religion. In Abington School District v. Schempp, (1963), 374 U.S. at 225, 83 S.Ct. at 1573, the Supreme Court said that although Bible readings in the public schools would invalidate the Establishment Clause, it specifically noted that the study of scripture for educational purposes and for study of comparitive religion will not establish religion per se. Such a comparison will not be different from a comparison that is needed in a case of plagiarism, when one work will have to be compared with the other, even though, such a work may be a religious story. Will it then be said that the issue of plagiarism cannot be adjudicated, because, it is a religious story? Plaintiff submits that if there is

profanity, obscenity and defamatory falsehood in the film, any jury should be able to determine that issue of fact, by comparison of the film, with any one of the Gospels. Although the texts in the Gospels may differ from one to another, and there may be differences in wording and phraseology in older manuscripts compared to the newer ones, but there are no differences in the substantive story of Jesus, and none of them would agree, even remotely, with the profanity and obscenity of the film, LTC The Gospel and the film story are sharply contrasted, like light and darkness, and it must be fairly easy for men of common intelligence to find the elements of offence

A comparable case to the Plaintiff's on the issue of obscenity, defamatory falsehood and triability of the case, is Bindrim v. Mitchell, App., 155 Cal. Rptr. 29. Plaintiff Bindrim, a psychologist, was libeled by Mitchell in her book,

"Touching", published by Doubleday, which falsely portrayed Bindrim using obscene language to his clients, to promote his business. Mitchell used a fictitious name of Simon Herford in her book for Bindrim. But the Second Circuit held: (cert denied 444 U S 984) that where alleged defamatory remarks could be determined, either as fact or opinion, and court cannot say as a matter of law that statements were not understood as fact, there is a triable issue for the jury, and that mere designation of the book as a novel won't bar the claim for libel, if in fact, a reasonable person reading the book would understand that the fictional character was in fact a real person, Bindrim, Page 39, Supra.

It's therefore, possible for a jury to find in Plaintiff's case, the issues of fact between the Bible and the film, LTC, to determine the offences alleged. The Defendants have also parenthetically tried

to escape the tort of profanity, etc., by designating the film, LTC, as a fiction, but no reasonable person who sees the film will be deceived into believing that the principal character relates to anyone other than Jesus of Nazareth. Just as a comparison has been made between the actual, and fictitious character in the book "Touching" in Bindrim v. Mitchell, extracts of comparison included in Appendix, Page 298-300, Plaintiff has also compared certain defamatory aspects of the film LTC, and the Gospel statements about Jesus - Appendix, Pages 289 to 297- to establish prima facie, the profanity and defamatory falsehood of the film.

B.

DISTINGUISHING COURT OF APPEALS CITATION:

In consideration of the foregoing discussion, the citation which the Court of Appeals, Fifth Circuit has quoted, Joseph Burstyn, Inc. v. Wilson,(1952), 343 U.S. 495, 505, to substantiate the point

that courts may not determine the Jesus story, (for comparative purposes), is misplaced and is not applicable to Plaintiff's case. Court of Appeals, Fifth Circuit decision dated September 17, 1990, at Pages 1,5 of the Appendix. In the first instance, Plaintiff has demonstrated above that just a comparison of the film, with the known story of Jesus Christ, to determine common law offences by itself will not invalidate first amendment. Secondly, the main issue in Burstyn v. Wilson page 505 Supra, relates to "unlimited restraining control over motion pictures in a censor", especially in relation to a vaguely defined term, "sacrilegious", which was "the sole standard under attack" in that case, and it was determined by the Supreme Court that the term did not relate to Deity, but to sacred things. It was this lack of definition of the standard and term "sacrilegious" by the New York Censor

Authority, that made the Supreme Court to strike down that vague criterion for censoring the film, "Miracle". It did not say that censoring per se will invalidate first amendment in all cases. The Supreme Court qualified its decision in Burstyn with exceptions, such as : "It does not follow that the Constitution requires absolute freedom to exhibit every motion picture of every kind at all times and all places" and "if there be capacity for evil, it may be relevant in determining the permissible scope of community control, but it does not authorize substantially unbridled censorship such as we have here." Burstyn, Supra at page 502. Furthermore, the Supreme Court said that the New York statute "does not seek to punish as a past offence, speech or writing falling within the permissible scope of subsequent punishment." Burstyn, Supra, Page 503. Plaintiff's complaint also does not raise any issue of prior or

temporary restraint of Defendants' film, but will amount to only subsequent punishment if the jury holds that the Defendants have committed common law offences by their film, and have interfered and infringed upon Plaintiff and others' constitutional rights.

Besides the above, there are exceptional differences between the film "Miracle" that was at dispute in Burstyn, and the Defendants' film, LTC. The film "Miracle", did not profane Deity with defamatory falsehood, and thus offend the sacred and sentimental feelings of laity, and did not insult or injure them and interfere with their freedom of worship, which is an important issue in LTC. Therefore, it is submitted that the decision of the Court of Appeals, Vth Circuit, that the First Amendment will be invalidated by determining the story of Jesus was an error, because, as mentioned earlier in Page 5 Supra, there is really

no need for anyone to 'determine' the story of Jesus, as the Gospels tell the story clearly, and will have to be compared only, with the film, to establish profanity, obscenity and defamatory falsehood, which a Jury can do with proper instructions.

Besides, in Times Film Corp. v. Chicago, 365 U.S. 43, 49, the Supreme Court clarified that the decision in Burstyn did not give producers/ distributors of all films the right to exhibit them without restraint irrespective of their content, and it did not reduce the power of a censor to restrain films that may be offensive to society. Also, "motion pictures were not 'necessarily subject to the precise rules governing any other particular method of expression " Therefore, it is submitted that Defendants do not have unilateral rights to exhibit the film LTC under first amendment, and they can be restrained

after a trial, if the alleged profanity, obscenity, and other common law offences are established.

III.

Defendants' film, LTC, alleged to be an offence against decency and truth, religion and morality, can be detrimental to the constitutional guarantees of tranquility and peace in an inter-racial and inter-religious society.

As submitted earlier, a majority of the Defendants' principal officers and creative executives are of Jewish faith, and by their tradition, are opposed to Christian faith. It is apparent that a film that profanes Jesus Christ could not have been produced by a member of the spiritual family of Christ who believes in his incarnation. The film,LTC, is therefore, a religious propaganda to discredit Christianity by defaming its author, and has been done with the

knowledge that it is false. Prior to 1970, when the film industry in Hollywood was not predominantly under the influence of Jewish film makers, films were made based on the Gospel story of Jesus: THE GREATEST STORY EVER TOLD, (1965), and KING OF KINGS (1927), a silent film classic by the famous film producer, Cecil B. DeMille, are still in circulation, and a comparison of one of those films, with the Defendants' film will itself show the glaring character assassination of Christ in LTC. Defendants knew the difference between their film and the films made earlier, based on the Gospels. They knew before they even went into production, that the film LTC will defame Christianity and Christ per se

But the Defendants took the project to film, with a religious zeal, because it gave them a vehicle to carry out a global religious propaganda that Jesus Christ was not GOD as the Christians believed, but

just a man, an ordinary man and a sinner. Such a character assassination, set in an obscene way, is offensive to Christian people and in fact, all decent minded people, whether Christian or not, since it is a lie and there is no truth in it.

Plaintiff submits that if Defendants are not restrained from the exhibition of their profane and obscene film, it will set a precedent for any company to make films for profit or vendetta, to defame Christ further in other dubious versions, or defame other religious leaders, e.g., Mohammed, that can result in serious inter-religious/ racial tensions and hatred, and would be against the spirit of harmony and accommodation of all faiths mentioned in Lynch v. Donnelly, Supra, assuring the welfare of all sects, with equal rights, and it will jeopardize the constitutional purpose of "welfare" and "domestic tranquility" to all people. (Preamble to U.S. Constitution.) Besides,

if the offensive film is not restrained, it will be shown in all the third world countries in all media, where the film can be taken as a fact, since knowledge of true Christianity is so scarce in those non-Christian lands. It will thus grossly misrepresent the God of Christianity, which is still the predominant religion in the U.S., as people in those far off lands understand. It will be bewildering to them to see that the God of Americans is a liar, a sinner and an adulterer. "The capacity for evil", (Burstyn, Inc. v. Wilson, 343 U.S. at 502,) in this film is so powerful that it can develop a negative propaganda in those nations against Christianity, and will cast a moral slur on American society, because for good or worse, films from Hollywood have traditionally been an influence in those developing nations.

Plaintiff submits that some of the national symbols of this Republic include

both Christian, and Jewish faiths, such as Christ's picture in the Washington National Gallery - his birth, Last Supper, Crucifixion and Resurrection, and in the chamber of the Supreme Court, Moses and the Ten Commandments. In describing this symbolic union of religions and judicial cognizance of an inter-religious society, Justice Douglas said that our government has "follow[ed] the best of our traditions and respect[ed] the religious nature of our people." : Zorach v. Clauson, 343 U.S at 314, 72 S.Ct. at 648.

Plaintiff submits that if this judicial standard of accommodation of all faiths with hostility to none must survive, then insult of the faith of one religious group by the other must become anathema to first amendment rights. If some strange artist could do away somehow, with the paintings of Christ, in the National Gallery of Art, and fill their places with scenes of profanity borrowed from

Defendants' film, LTC, it will not get the approval of decent minded people,in this nation either in the name of art, or freedom of speech. Yet, this is what it amounts to by the exhibition of this obscene film that has attacked the symbols and values of Christianity. The offence would not be any less, if another artist chooses to insult the divine mission of Moses and caricatures him in the name of art in ways that would not only assassinate his character, but blaspheme God, the God of most people in this nation

CONCLUSION

In conclusion, Plaintiff prays for the grant of Certiorari to the Vth Circuit, based on the questions raised and issues discussed, on first amendment freedom of speech,and freedom of religion as it relates to laws of morality and order, especially in a society composed of

inter-racial and inter-religious sub-cultures.

Respectfully submitted,

Veda Nayak

(VEDA NAYAK)

Petitioner/Plaintiff Pro Se

Dated: December 7, 1990

TABLE OF CONTENTS

APPENDIX: VOL I

		Page
1	Judgment of the United States Court of Appeals for the Fifth Circuit; September 17, 1990	1
2	Press Reports and other related information	6
3	Plaintiff's original complaint filed with the U S District Court, Southern District of Texas	34
4	Biblical Extracts Outline on the life of Jesus	78

APPENDIX: VOL II

5	Defendants' Motion to Dismiss for failure to state a claim	95
6	Plaintiff's response to Defendants' Motion to Dismiss	104
7	Judgment of the District Court	151
8	Plaintiff-Appellant's Brief to the Court of Appeals, Fifth Circuit	152
9	Appellees' Reply Brief	219
10	Appellant's response to Appellees' Brief	235
11	Extracts from The Urantia Book	263
12	Comparison between the New Testament and the film LTC	289
13	Comparison of "Touching" with transcript in Bindrim v Mitchell	296
14	Definition of Christianity	301
15	Definition of the Bible	305

NOTE: For this presentation, for easy reference, the internal page numbers of references are made consistent with each other, although such references may have appeared with different page numbers in submission to courts below

NAYAK v. MCA, INC.

Veda Nayak, Plaintiff-Appellant,

v.

MCA, Inc., et al.,

Defendants-Appellees.

No. 90-2188

Summary Calender

United States Court of Appeals,

Fifth Circuit

Sept. 17, 1990.

Appeal was taken from order of the United States District Court for the Southern District of Texas, Kenneth M. Hoyt, J., which dismissed action which sought to enjoin distribution of motion picture film. The Court of Appeals, Clark, Chief Judge, held that: (1) trial of religious issues raised by plaintiff who alleged that film was a defamatory interpretation of the life of Christ would violate the First Amendment, and (2)

correct interpretation of the life of Christ is not a justiciable question before a federal court.

Affirmed

1. **Constitutional Law 84.5(1)**

Trial of religious issues raised by plaintiff who sought to enjoin distribution of film which was alleged to be a defamatory interpretation of the life of Jesus Christ infringing on plaintiff's constitutional right to freedom of worship and religion would violate First Amendment U.S.C.A. Const. Amend. 1.

2. **Federal Courts 13**

The correct interpretation of the life of Christ is not a justiciable question before federal court.

Appeal from the United States District Court for the Southern District of Texas

Before CLARK, Chief Judge, GEE and DUHE, Circuit Judges.

CLARK, Chief Judge:

I

The district court dismissed the complaint of Veda Nayak under Federal Rule of Civil Procedure 12 (b)(6) for failure to state a justiciable claim. Nayak's complaint against MCA, Inc., both the United States and Canadian branches of the Cineplex Odeon Corporation, and the manager of a Houston theater sought to enjoin the distribution and presentation of the movie "The Last Temptation of Christ." Nayak claimed that the film was a defamatory interpretation of the life of Jesus Christ which infringed on the Plaintiff's and other believers' constitutional right to freedom of worship and religion. A timely appeal was taken.

II

In reviewing Rule 12(b)(6) dismissals, we accept all well-pled allegations of fact and dismiss only if "it appears beyond doubt that the

plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Thomas v Smith, 897 F 2d 154, 156 (5th Cir 1989) (citations omitted)

[1,2] Trial of the religious issues raised by the plaintiff would violate the First Amendment. The Supreme Court has stated:

> "The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect." Watson v Jones, 13 Wall 679, 20 L Ed 666 Freedom of thought, which includes freedom of religious belief, is basic in a society of free men. It embraces the right to maintain theories of life and death and of the hereafter which are rank heresy to followers of the orthodox religion. Heresy trials are foreign to our Constitution.

United States v Ballard, 322 U S 78, 86, 64 S Ct., 882, 886, 88 L Ed 1148 (1944).

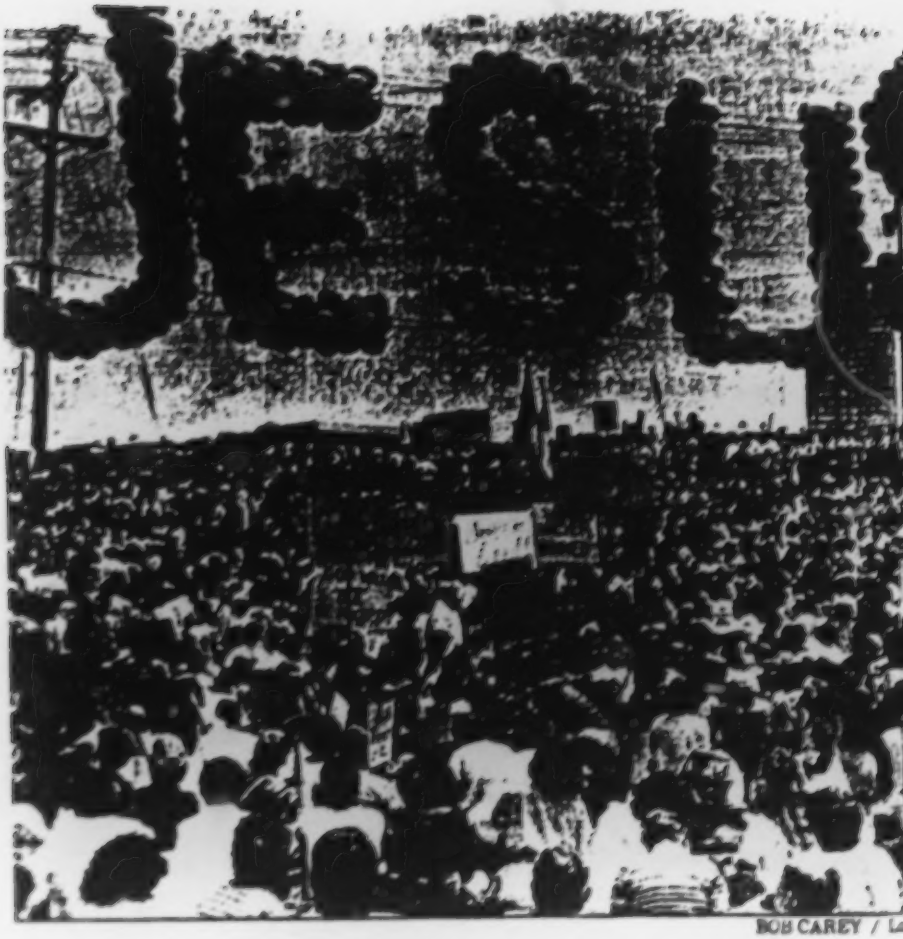
The plaintiff asked the court to decide the "correct" interpretation of the life of Christ. This is not a justiciable question before a federal court. See Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495, 505, 72 S Ct 777, 782, 96 L Ed 1098(1952) ("It is not the business of government in our nation to suppress real or imagined attacks upon a particular religious doctrine, whether they appear in publications, speeches, or motion pictures.") Despite the sincerity of Nayak's beliefs, his legal argument based on those beliefs are non justiciable.

III

The judgment of the District Court is AFFIRMED.

(TRUE COPY)

SELECTED PRESS REPORTS



(TRUE COPY FROM The Los Angeles Times)

FILM: 25,000 Protest Against 'Last Temptation' at Universal

Woman, left, holds crucifix at demonstration against "The Last Temptation of Christ" at Universal Studios.

(TRUE COPY FROM The Los Angeles Times)

25,000 Gather at Universal to Protest Film

By RUSSELL CHANDLER,
Times Religion Writer

A singing, chanting crowd estimated by police at 25,000 marched in front of the gates of Universal Pictures on Thursday, protesting the studio's release today of the controversial movie, "The Last Temptation of Christ" in Los Angeles and eight other U S and Canadian cities

The protest-coordinated by two Southern California radio stations and a television station that broadcast Christian religious programs- represented the largest outpouring yet against the movie Police termed the demonstration especially large for a weekday

Traffic backed up for miles on the northbound Hollywood Freeway and jammed surface streets around the studio complex in Universal City for more than an hour

The demonstrators, many of whom carried placards, wooden crosses and Bibles, were orderly and did not attempt to block entrances to Universal and its parent company, MCA Inc.

"We need to stand up and say what needs to be said," declared Oliver Milton, a Lutheran of Woodland Hills who, like many, took the day off from work to attend the three-hour rally. "The Jesus depicted in this movie is not the Jesus of the Bible."

Hasn't seen the movie

Milton, like nearly everyone at the rally, had not seen the movie, but based his opinion on portions of an early script that has been widely circulated by conservative critics of the movie and on news reports from critics and others who have viewed the film.

The movie, based on the novel by Greek author Nikos Kazantzakis, was directed by Paul Schrader. It focuses on Jesus' "human

side", depicting his doubts about God's role for him but also includes scenes of Jesus' divine powers, including miracles

Protesters of the film, mainly evangelical Protestants and conservative Catholics, have centered their objections on Scorcese's portrayal of Jesus as a weak, vacillating Savior who struggles with lustful temptations and on a sequence that shows Jesus being tempted by the devil to leave the cross and have sex with Mary Magdalene

Also, on Thursday, citing a landslide of protests from Christian groups, three theater chains with 80 screens in the Baltimore area joined the growing number of theaters that have said they will not show "The Last Temptation " Earlier, the 1,388 movie houses of the Boston-based General Cinema theaters- fourth largest in the nation-the Edwards Cinemas of Newport Beach, with dozens of theaters in Southern California, and Luxury Theaters of

Portland, Ore., announced they would boycott the film.

Placards carried by protesters outside Universal facilities Thursday ranged from "Please don't crucify Christ again," "Don't trash My Lord" and "The Greatest Story Ever Distorted" to Bible warnings directed against MCA Inc. and its chairman, Lew Wasserman. The demonstration was organized by Citizens for a Universal Appeal, an Orange County based ad hoc coalition of religious groups and individuals.

At a press conference opening the rally, a variety of Christian and several Jewish leaders condemned the film, called for a boycott of all MCA enterprises and urged supporters in cities where "The Last Temptation" is to be shown to peacefully picket outside the theaters.

Actor Roosevelt Grier, a former football star castigated "a movie company that would dare to make fun of the Creator

of the Universe," and Atlanta pastor Richard Lee said: "If we can't speak to their (MCA's) hearts or their heads, we can speak to their wallets."

Speakers also included Rabbi Haim Asa of Orange County and KABC radio commentator Dennis Prager.

A Jew who has written several books about Judaism, Prager said: "Jews and Christians should have understood long before "The Last Temptation of Christ" that nearly everything that their religions hold sacred had been profaned in the movies. The issue is not Christian censorship; it is Hollywood's nihilism."

The larger-than-expected turnout was taken by demonstration leaders as a signal that religious people of many persuasions are banding together to fight a perceived bias against them by the entertainment industry. Prager referred to "an aggressive secularism that now attempts even to overtake religion itself."

"Unleashing a Movement"

"We're unleashing a movement," declared the Rev. Donald Wildman, a Tupelo, Miss. Methodist minister who has been at the forefront of opposition to the film. "Christian bashing is over."

"We demand that anti-Christian stereotypes come to an end," he added to the responding applause and scattered shouts of "amen" from the crowd.

Another indication of broadening resistance to "The Last Temptation" was the announcement Thursday by a leading Muslim spokesman in Los Angeles that the Islamic Center of Southern California is urging its constituency of about 10,000 families to boycott the film. Muslims do not regard Jesus as divine, but he is revered as a prophet of God.

Dr. Maher Hathout said in an interview that he is drafting a formal statement for the center's board opposing what he believes from reports to be a

disrespectful depiction of Jesus "Human decency and ethical standards should keep all people respecting each other's religions " Hathout said

While television news helicopters hovered above the Universal complex, the placard carrying demonstrators, some pushing baby strollers, marched down the hill from Universal's gates chanting "Boycott MCA" and singing "The Battle Hymn of the Republic "

Assembling again in a nearby park, the crowd joined in what could well be described as a giant pep rally for Jesus

Motorcycle Club

Circulating among the protesters were 30 leather jacketed members of "Christ's Sons - Live or Die," a Christian motorcycle club from Anaheim

"We're riding for Jesus and protesting that dirty movie We won't stand for this garbage," said Phil Aguilar, 40, the tall rangy leader of the pack that

wore beards, sunglasses, headbands and motorcycle boots. "We're going to attack all the theaters in our area," Aguilar added. He refused to discuss his strategy except to say, "It will be right on the border of legal."

Staff writer Louis Sahagun contributed to this story.

(True Copy from THE LOS ANGELES TIMES)

A HOLY FUROR

Boycotts and belligerence greet a startling new film about Jesus

Jesus has brief on screen sex with his first wife Mary Magdalene and later commits adultery Judas is a hero, the strongest and best of the apostles Paul is a hypocrite and liar Jesus is so dazed that, even on the eve of his Crucifixion, he is still not quite sure whether to preach love or murder Romans

Ready for Director Martin Scorcese's new movie, **The Last Temptation of Christ?**

Powerful, eccentric, bloody, filled with theological gaffes, **Temptation** is an excruciatingly earnest and freewheeling docudrama based on the 1955 best-selling novel by a tormented Greek Orthodox believer, Nikos Kazantzakis It is the result of an obsessive 16-year quest by one of Hollywood's most esteemed directors to bring to the screen a struggling Christ who only slowly comes to

see himself as the Messiah. The movie, Scorcese says, "is my way of trying to get closer to God."

When it opens this Friday in New York, Los Angeles and other cities, religious crowd scenes are almost certain to appear outside the theaters as well as in them. For the past month, conservative Christians have denounced the film as blasphemous, staged demonstrations, called for boycotts and shaped a national campaign to have the picture destroyed or withdrawn. Along the way, there have been anti-Semitic incidents and threats against the "non-Christians" at Universal Pictures who took a chance on the film partly to encourage the film maker to pursue future projects at the studio.

So far, most of the voices raised against the film belong to people who have not yet seen it. Italian Director Franco Zefferelli called the movie "damaging to the image of Christ. He cannot be made the

object of low fantasies " Fundamentalist leader Jerry Falwell called for boycott against MCA, Universal's parent company, all MCA products, which include Grosset & Dunlap publishers, Spencer Gifts and Motown Records, and any theater that shows the film. Said Falwell: "Neither the label 'fiction' nor the First Amendment gives Universal the right to libel, slander and ridicule the most central figure in world history "

To head off further furor or perhaps even to cash in on it, Universal decided last week to move the opening up from Sept. 23 to Aug. 12. Says Tom Pollock, chairman of MCA's motion picture group, "The best thing that can be done for **The Last Temptation of Christ** at this time is to make it available to the American people and allow them to draw their own conclusions , based on fact not fallacy " But Tim Penland, a born-again marketing expert once hired by Universal to placate

conservative critics and now a critic himself, believes the six-week jump will unleash more Fundamentalist anger. "It's the most serious mistake a studio has made in decades," he says.

The dramatic center piece of the film is a half-hour segment in which the dying Christ, played by Willem Dafoe, hallucinates about the devil's final temptation: come down form the cross, renounce your role as the Messiah, marry Mary Magdalene and live a long and ordinary life.

Nothing unorthodox there, strictly speaking. As both fully human and fully divine, Jesus is viewed in Christian theology as free of sin but subject to temptations including sexual ones. Following Kazantzakis however, Scorcese presents the early Jesus as a weak and dithering collaborator who builds crosses used by the Romans to execute Jewish rebels. Later he becomes the wild-eyed

guru to a band of ragged followers but remains apprehensive and fundamentally confused about his message and his mission. He persuades Judas, his best friend, to betray him to fulfill God's plan. During his reverie on the cross, Jesus is shown briefly having sex with his wife, Mary Magdalene. Later in the fantasy, after Magdalene dies, he weds Mary of the biblical duo Mary and Martha, then commits adultery with Martha.

Temptation is drenched in blood. The blood of sacrificed animals runs through ths streets, blood unaccountably pours out of an apple Jesus eats and at the Last Supper, the wine literally turns into blood. In one grotesque scene, Jesus reaches into his heart (though it looks more like his belly), yanks out his heart and holds it up for his apostles to admire.

For a few critics, this display seems to be an arch-send up of the Catholic

devotion to the sacred heart of Jesus Some dialogue also hints at satire, probably unintentionally. Asked by a Zealot to compare being dead with being alive, Lazarus says thoughtfully: "I was a little surprised. There isn't that much difference " At times Jesus sounds like a mumbling method actor (his first sermon begins "Umm, uh, I'm sorry"), at others like a recent graduate of the Shirley MacLaine School of Theology ("Everything's part of God")

For Scorcese, a former altar boy who once wanted to be a priest, the movie is no frivolous matter. Actress Barbara Hershey, who plays Mary Magdalene, gave him a copy of the Kazantzakis novel in 1972, and he has been contemplating it ever since. Kazantzakis' Jesus, he insists, is both human and divine in accordance with Christian teaching. What interested Scorcese in the author's

approach "was that the human part of Jesus would have trouble accepting the divine "

For many believers, the problem with all this is that Scorcese is not tinkering with a minor historical figure as Gore Vidal did with Aaron Burr, but with the founder of their faith "This is an intentional attack on Christianity " concludes Joseph Reilly, national director of Morality in Media The group is particularly incensed by Jesus' anguished comment, "I am a liar, I am a hypocrite, I am afraid of everything Lucifer is inside me "

Universal Pictures had anticipated controversy Paramount, originally set to produce the movie in 1983, backed out just weeks before the cameras were set to roll To head off a storm, Universal took the unusual step last January of hiring Tim Penland to calm down the religious right But Penland resigned in June, charging that Universal had reneged on a promise to

let conservative religious leaders see the film and comment on it well in advance of its release.

Although Universal did hold screenings for religious leaders last month, most conservatives refused to come. Instead, they staged protests at the Universal lot and published an admonishing ad in the **Hollywood Reporter**. In a letter to MCA Chairman Lew Wasserman, Bill Bright of the Campus Crusade for Christ offered to raise money to reimburse Universal for all copies of the film, which would "promptly be destroyed." Universal responded with lofty, full-page newspaper ads in four cities, quoting Thomas Jefferson and announcing that the Constitutional rights to free expression and freedom of religion were not for sale.

In the most organized campaign of resistance, Methodist Minister Donald Wildmon, head of the American Family Association, is sending out 2.5 million

mailings protesting the film and has scheduled anti-Temptation spots on 700 Christian radio stations and 50 to 75 TV stations. "In the twelve years of my current ministry," he says, "I've never seen anything like the response to this movie."

Make that the response to the response. As an annoyed Scorcese points out, "Ninety nine percent of the people who are complaining have not seen the picture." Many complainers are instead responding to a bootleg copy of an outdated script, circulated by the Sisterhood of Mary, a group of ultra conservative Protestant women. That version contained the egregious line, which is not in the movie, spoken by Jesus to Mary Magdalene, "God sleeps between your legs."

Universal has tried to calm things down, inserting a disclaimer in the movie saying its fiction, and making Scorcese

available for interviews, stressing his religious sincerity. Yet the protest has taken on a life of its own. Virtually every televangelist, including Pat Robertson, has mentioned the film during appeals for money. A nonsectarian group called Concerned Women of America has asked MCA stockholders to sell the company's stock on September 15. And Mother Angelica, a nun who runs the nation's largest Catholic cable network, is calling on protesters to drive with their lights on Aug 22. Both dates were picked at random when the opening was still set for September.

Some of the protests have taken on ugly anti-Semitic overtones. Three weeks ago, the Rev. R.L. Hymers, Jr., a Christian extremist in the Los Angeles area, staged a demonstration near the Beverly Hills home of MCA Chairman Wasserman, who is Jewish. An actor portraying Wasserman stepped repeatedly on

the bloody back of an actor dressed as Jesus and carrying a heavy cross. An airplane meanwhile, flew overhead trailing a banner that read WASSERMAN FANS JEW HATRED WITH TEMPTATION, and a crowd chanted, "Bankrolled by Jewish money."

As conservatives shriek all around them, liberal churchmen have been bending over backward to avoid criticizing the film, stressing Scorcese's right to interpret Jesus in his own way and sometimes issuing a tepid defense or two. Fundamentalist fears are exaggerated, says the Rev. Eugene Schneider of the United Church of Christ, because "people who go to the movie are going to come out bored and leave before it is over."

The Rt. Rev. Paul Moore Jr., Episcopal Bishop of New York, offered one of the strongest defenses, calling **Temptation** theologically sound. "Though the love making between Jesus and Mary may offend some, he said, "Remember, it's a

dream. This is yet another portrait - a work of art- which emphasizes certain aspects of Jesus." The Rev. William Fore of the National Council of Churches similarly sees the movie as "an honest attempt to tell the story of Jesus from a different perspective."

Catholics and Methodists have issued no formal response to the film. Bishop Anthony Bosco of Greensburg, Pa., head of the communications department for the National Council of Catholic Bishops, thinks that the movie should be allowed to expire quietly. "This too shall pass away," he says. But not all Catholics are so patient: his office has received hundreds of phone calls demanding that the church speak out. Says Bishop Bosco, "The anti-Semitism and the hatred this movie has caused can hardly please the heart of Christ."

Many clergymen say they have no interest in fanning hysteria over the

film, but they wish that Scorcese had made a better movie. The film's Jesus questions himself so much that "it's sort of like watching **The Three Faces of Eve**." complains the Rev. Michael Morris, who teaches religion and the cinema at a Catholic school in Berkeley.

There are knotty theological problems too. In the dream sequence, for example, when Jesus interrupts Paul's preaching to explain that he did not die and rise again, Paul says the facts are not important as long as the people have something to believe in. This appears to reinforce the familiar and cynical view that Paul invented Christianity and distorted Jesus' teachings. Scorcese's Jesus also makes a number of doctrinal blunders. He announces that his death will pay for his own sins, rather than for the sins of mankind. And he picks up dirt and stones and says,"This is my body too.",

which apparently makes him a founder of pantheism as well as Christianity.

Such theological slipups are fueling passions about the film. Father Morris says he was told by Scorcese that the film maker wonders why everyone is so upset when "it's just a movie." After all, the director said, he has a right to work out his private quest for Jesus on film. "This irks me a bit." admits Father Morris. "You can't be working out private problems to the degree that it causes people to riot in the streets." Although that prospect is unlikely, **The Last Temptation of Christ** has touched off the angriest debate in years.

-- By John Lee.

Reported by Marguerite Michaels/New York and James Wilworth/Los Angeles.

(True Copy from TIME, dated August 15, 1988.

JESSE HELMS

North Carolina

UNITED STATES SENATE

Washington, DC 20510

September 21, 1989

Mr. Veda Nayak

Citizens for Religious Freedom

4770 West Bellfort, Suite 285

Houston, Texas 77035

Dear Mr. Nayak:

Thank you for sharing your outrage at obscene blasphemy posing as so-called "art." It is mine as well.

A kinder, gentler nation is not one that degenerates the faith of millions of Americans, far less one that mocks our crucified Lord. The abuse of one penny of taxpayers' money in this regard is a matter of principle. It speaks to the values that our federal government holds dear.

Your kind words of support are most encouraging. It is tragic that some so-called artists prefer the deviant and demonic to the innocent and divine. It is intolerable that we be forced to underwrite their sacrilege and pornography with our tax dollars. I hope you have written your Senators and Congressmen in support of my amendment. It is currently before a conference committee, which is being bombarded with letters from the art establishment that defends taxpayer-subsidized homoerotic, sadomasochistic degeneracy.

As for "The Last Temptation of Christ," the **first** commandment given by God concerns the honor to be accorded God, who warns: "Thou shalt have no other gods before Me." Whatever gods the producers of this vile movie were serving (the god of the fast buck, whose shrine is the box office?) their blasphemous assault on

God's Only Begotten Son offends God and should offend all decent-minded men.

Thanks again for not standing silent when Christ is crucified anew. With gratitude for your concern,

Sincerely,

JESSE HELMS(sd)

JESSE HELMS:ea

(TRUE COPY)

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION.

Veda Nayak	)	Civil Action
4770, W. Bellfort,	)	No: H-89-2695
Suite 285	)	
Houston, TX 77035	)	
Plaintiff (713)684-6552	)	
	)	
vs	)	
	)	
MCA, INC	)	Complaint
100, Universal City Plaza	)	for breach
Universal City, CA 91608,	)	of First
Cineplex Odeon	)	Amendment
1925, Century Park East	)	Rights and
Los Angeles, CA 90067.	)	unlawful
Cineplex Odeon	)	infringement
1313, Young Street	)	of religious
Toronto M4 T2 Y9	)	freedom

Canada.)

and)

Manager)

Spectrum Theatre)

2660, Augusta)

Houston, Texas 77057)

Defendants)

JURISDICTION AND VENUE

1. This action is brought under the First, Fifth and Fourteenth Amendments to the Constitution and other fundamental rights of the Constitution of the United States. Jurisdiction is asserted under Title 28 U.S.C. #1392, based on diversity of citizenship.

PARTIES.

2 The Plaintiff Veda Nayak, is and at all times herein mentioned, an individual residing and doing business in Harris County, Texas.

3. Plaintiff is informed and believes, and on that basis alleges that Defendant MCA, INC. is and at all times herein

mentioned was a corporation organized and existing under and by virtue of the laws of the State of California Defendant MCA is the owner or parent company of the entity UNIVERSAL PICTURES and UNIVERSAL PICTURES INTERNATIONAL, which make and distribute motion pictures in the United States and abroad

4 Plaintiff is informed and believes, and on that basis alleges that Defendant CINEPLEX ODEON CORPORATION (U S HEADQUARTERS) is and at all times herein mentioned was a Corporation organized and existing under and by virtue of the laws of the State of California, and is in the business of financing, distributing and exhibiting motion pictures

5 Plaintiff is informed and on that basis alleges that Defendant Ben Drummond, MANAGER of the Spectrum Theater in Houston, Texas, is and at all times herein mentioned an employee of the Defendant

A: GENERAL ALLEGATIONS.

8 Plaintiff is informed and on that basis alleges that Defendant MCA, INC. produced during 1987-88, a film entitled THE LAST TEMPTATION OF CHRIST, hereinafter THE FILM, in partnership with Defendant CINEPLEX ODEON CORPORATION (U S HEADQUARTERS), starring Barbra Hershey and Willem Dafoe in the lead roles of Mary Magdalene and Jesus respectively, and directed by Martin Scorcese. Since Israel refused to give permission to shoot the film in the land of Christ's nativity, Defendant MCA moved quietly, the location of the film to Morocco In order to suppress the Press and public attention, Defendant MCA concealed the name of the film during production and called it "THE PASSION"

9 A few weeks before the release of the film in 1988, the true title of the film, THE LAST TEMPTATION OF CHRIST was revealed, and there were widespread

objections to the film from Christian believers and leaders, some of whom had access to the defamatory script that portrayed Jesus as a SINNER, a TRAITOR, a LIAR, DEMON POSSESSED, and an ADULTERER, contrary to the biblical and historical record of the life of Jesus - defaming the well known public figure and image of Christ falsely and fraudulently. EXHIBIT I (See Appendix, Pages 6 to 16) is a sample record of the widespread objections to the film by the public, and inspite of these valid objections and knowing fully that they had no right constitutionally to defame a public figure falsely, the Defendants proceeded to release the film recklessly, and in callous disregard to the freedom and sentiments of the believing public

10 In order to induce MCA, INC to stop releasing the defamatory film, Defendant MCA, INC was offered sufficient compensation by Bill Bright of CAMPUS

CRUSADE FOR CHRIST, Los Angeles. But Defendant MCA refused to consider the offer and took out an advertisement in leading newspapers of the nation that the Defendants' First Amendment rights were not for sale, and that it had a right to release the film. Although many theaters boycotted the film and refused to exhibit it because of its defamatory content, the Defendants, MCA, INC. and CINEPLEX ODEON CORPORATION (U.S. HEADQUARTERS), hereinafter PRINCIPAL DEFENDANTS, recklessly decided to defame the public figure of Christ by releasing the film in selected theaters nationwide on August 12, 1988, a month before its scheduled release date. The defamatory film was released in Houston by Defendant, CINEPLEX ODEON (CANADA HEADQUARTERS) through Defendant Ben Drummond, MANAGER of Spectrum Theater, Houston, on August 19, 1988. Defendant MCA succeeded in releasing the film inspite of boycotts from other theater chains because

Defendant CINEPLEX ODEON (CANADA HEADQUARTERS) and CINEPLEX ODEON CORPORATION (U.S. HEADQUARTERS) owned a good many of the theaters in the U.S. and Canada. Plaintiff alleges that the Principal Defendants' action to release the defamatory film inspite of myriad valid objections was wilful, and they breached their First Amendment rights by exhibiting the film that defamed Christ.

11. Plaintiff alleges that the Principal Defendants had the sole responsibility for the production of the defamatory film as they were the producers who financed and shot the film, although many creative talents were hired in making the film. The Principal Defendants came forward to produce the defamatory film rejected by other producers and distributors in Hollywood because of the film's frivolous content, and therefore knew that the film was defamatory and damaging to the person of Christ.

12. Plaintiff, based on his eyewitness account fo the film, analyses generally hereunder, the defamatory aspects of the Defendants' film: The film portrays the character of Jesus as a man reluctant to shoulder the role of Messiah, the role he was chosen to play by God, the Father. Right from the beginning, the Jesus in the film is unsure of himself as the Christ. He is frequently tormented by God's voice and struggles with God like a mad man in agony and pain, throwing himself on the ground, seized by paralytic attacks, fits and seizures that gives an impression that Jesus had serious mental problems and was demon possessed. Besides these fraudulent depictions, the Jesus in the film is also not loyal to his race. He proves the insults of Judas that he was a traitor, by making crosses for the Romans to CRUCIFY his own people. This Jesus confesses that he is a SINNER, a LIAR, possessed of the fallen spirit Lucifer, and declares that

he was going to die for his own sins! Throughout the film, Jesus betrays fear, lack of confidence and lack of unity with his father in heaven, a character so different and so unworthy to be called the "Holy One", the "Anointed One" and "Mighty God" as the Old Testament prophets have defined the Christ incarnate. The Jesus of the film is branded a HYPOCRITE, who conceals his sexual fantasies, who is unable to totally resist his carnal desires when he freaks out from the cross, in a dream, and dares to walk away from the cross to have sex with Mary Magdalene. Then to add further insult to insult, this Jesus has an adulterous relationship with the Lazarus sisters - Mary and Martha.

13. Plaintiff alleges that the basic purpose in making and exhibiting the said film by the Defendants was to distort, malign and assassinate the character of the historical and biblical Christ. The Defendants have sought to cover up their

act of defamation by prefacing the film as a fiction. Plaintiff asserts that this was a dubious effort on the part of the Defendants, as the film's leading character identified with the person of Christ, a real character, not a fictitious character. A real person whom millions of people believed, and believe as God who became man, and not man who progressively evolved to become God.

14. The Plaintiff alleges further that the Principal Defendants' portrayal of the Christ character in the said film was totally false, not supported by any authentic biblical or historical record, and opposed totally to the immaculate character of Christ mentioned in the Bible, selected extracts cited in EXHIBIT III(See Appendix: Pages 78-84)

15. Plaintiff alleges that the Principal Defendants' film script has been so contrived and fabricated mainly to assassinate and denigrate the impeccable

person of Christ without any regard to historical or biblical facts

B: SPECIFIC ALLEGATIONS

16 Plaintiff details below, the Principal Defendants' defamation of the Christ character in selected scenes in the said film.

(1). DEFAMATION OF THE LOYALTY OF JESUS.

Contrary to the biblical Jesus who came to SAVE his own people Israel, the Jesus in the said film is portrayed by the Principal Defendants as a JEW KILLER who has NO LOYALTY to the race into which he was born. The following scene takes place in a workshop where Jesus is working as a carpenter, and he is making crosses when Judas comes and talks to him

JUDAS

> You're a disgrace. Romans can't find anyone to make crosses except you. You do it. You're worse than them! You are a Jew killing Jews. How will you ever

pay for your sins?

JESUS

With my life, Judas. I don't have anything else.

Plaintiff asserts based on his information that there is no historical record either in the Gospels or in other historical do documents to prove or suggest that Jesus of Nazareth did such reprehensible acts, - disloyal and harmful to his own people. On the contrary, the historical and biblical Jesus healed the sick, forgave sins, delivered victims from evil spirits and raised the dead, and he was ever compassionate to his people, as may be seen from the selected extracts from the Gospels and the Book of Isaiah, included in EXHIBIT IV (Appendix:Pg 84-85)

(2). JESUS FIGHTS HIS MESSIANIC MISSION.

Contrary to the Jesus of the Bible who shouldered willingly, his messianic mission, obedient always to the voice of his heavenly Father, the film depicts

falsely that Jesus rebelled to take on his mission. The following scene in the film takes place just after Jesus had helped the Romans to crucify his people with the crosses he made for them, when Jesus explains his aversion to God's command.

JESUS

> God loves me. I know he loves me. I want him to stop. I can't take it anymore, the voices and the pain. I want him to HATE me. I fight it. I make crosses so he will hate me. I want him to find somebody else. I want to crucify every one of his messiahs.

Contrary to the false and fraudulent depiction of Jesus in the film as cited above, EXHIBIT V (Appendix Pg 85-88) gives authentic references that the real Jesus knew his mission. He was in perfect union with his Father in Heaven in executing his

mission and he had no hesitation to shoulder his messianic responsibility. Plaintiff asserts based on his information, that the Jesus of the Bible knew his divine origin. He was ready to play his messianic role, and even to lay down his life to accomplish the plan of salvation of all people.

Plaintiff alleges that in the light of the authoritative references given in EXHIBIT V, (Appendix: Pages 86-88), the portrayal of Jesus as resisting his mission and rebelling with his Father in Heaven in the said film is a deliberate attempt of the Principal Defendants to falsely defame the person of Jesus, and to denigrate falsely, his character.

(3). DEFAMATION OF THE PERSONALITY, AND INTEGRITY OF JESUS:

The Plaintiff alleges that the Principal Defendants have falsely and fraudulently shown Jesus in the said film

as a confused, fearful and often demoralized man.

The following scene takes place in the film in a ascetic community in the wilderness. Jesus talks to a man as they walk along a cliff.

JESUS

You think it's a blessing to know what God wants? I'll tell you what he wants; he wants to push me over the cliff (Jesus is implying God wants him to die). Can't you see what's inside of me? My sins.

MAN

We all sin

JESUS

NOT MY SINS. I'm a liar, a hypocrite; I'm afraid of everything. I don't EVER tell the truth, I don't have the courage. When I see a woman,

I blush and look away. I want to, but I don't take her - for God - and that makes me PROUD. And then my pride (ruins?) Magdalene. I don't steal, I don't fight, I don't kill - NOT BECAUSE I DON'T WANT TO - but because I'm AFRAID. I want to rebel against you, against everything, AGAINST GOD, but I'm afraid. You want to know who my mother and father is? FEAR! You look inside me and that's all you'll find.

Plaintiff asserts that none of the biblical or other historical documents would suggest that Jesus was a sinner, a fearful coward, and a lustful hypocrite by his own confession. EXHIBIT II, that gives a detailed cross section of Jesus' life, will show that the Defendants' slanderous portrayal of Jesus as a LIAR, a SINNER and a HYPOCRITE by his own confession is

totally false. Jesus faced fearlessly, the Roman and Sanhedrin soldiers when they came to arrest him in the Garden of Gethsamane, and if he were a coward, he would have run away. In fact, a part of the army JUST FELL FLAT on the ground when he stepped forward to face it. (John: chapter 18: 3-11). Indeed, if he did not let them take him, there was no way such a mortal army could have taken the Creator of the Universe, a prisoner.

The Plaintiff therefore alleges that the Principal Defendants falsely and deliberately slandered Jesus Christ as a fearful person with impunity, made him confess himself as a LIAR in the said film; whereas the real Jesus declared: "I AM THE WAY, THE TRUTH AND THE LIFE." (John 14:6)

(4). DEFAMATION BY MORAL DEGRADATION.

Plaintiff alleges that the Principal Defendants have FALSELY defamed Jesus Christ by characterizing him as a man with

lustful intentions and imputing the motive that he had incestuous feelings towards his own mortal children whom he came to save. The following eight scenes selected from the said film highlight the false and fraudulent portrayal of Jesus' moral character through a grotesque sexual relationship with Mary Magdalene and the Lazarus sisters, unsupported by any biblical or historical record.

SCENE 1, PLACE: ON A ROAD.

Jesus is carrying one of the crosses he had made for the Romans to crucify the Jews, when Mary Magdalene comes and spits on his face. Jesus has done something wrong for Magdalene to become so angry. It was not only about what he was doing to the Jews but also that he, although in love with her as a woman, would not take her and make love to her, and be her man, which is revealed in the following scene.

SCENE 2, PLACE: MAGDALENE'S BROTHEL.

Jesus steps into the brothel to see Magdalene, but he has to wait where men are queuing up to take their turns to have sex with her. Jesus helplessly watches his sweetheart engaged in violent sexual orgies with the men, which is visible through a veil. After all the men have left, Jesus enters her bed chamber. Magdalene is exhausted and Jesus approaches her.

MAGDALENE

Who's out there? What are you doing here?

JESUS

I WANT YOU TO FORGIVE ME. I've DONE TOO MANY BAD THINGS. I'm going to the desert. I need you to forgive me before I go. Please....

MAGDALENE

Oh, I see. You said I'll have a day with you. And then you come in here with your head down saying "Forgive me. Forgive me." It's not that

easy. Just because you need forgiveness, don't ask me to do it.

JESUS

Look, Mary, look at this. God came to change this...to save your soul.

MARY

You've already broke my heart. Just get away from me. I hate both of you.

JESUS

Hate me; blame me. It's all my fault, but not God's.

MARY

Who made me feel this way about God?

JESUS

I KNOW - that's why I'm here. So I want you to forgive me. I'll pay my debt. Mary, do you remember?

MARY

No, I don't remember. Why should I? You're not a man. You're the

same as all the others, only you can't admit it. You're pitiful. I hate you!..Turn away, don't look at me. Here's my body. Save it! Save it! You don't have the courage to be like other men. Don't look at me! I do remember when we were children. Never have I felt so much tenderness toward anyone as I felt with you that night. All I wanted was you, nothing else.

SCENE 3, JESUS IS PREPARED TO KILL FOR MAGDALENE.

Jesus and Judas are talking about Magdalene. Jesus betrays his love for her and shows his animosity, to kill those who were stoning his love.

JESUS

When those people were torturing (stoning) Magdalene, I wanted to KILL them. But no, I opened my mouth and out came the word "love." Why? I

don't know.

JESUS POSSESSED

Contrary to the historical Christ that drove out evil spirits from the afflicted people, the Principal Defendants have defamed the person of Christ by showing in the said film that he was possessed of the fallen spirit, Lucifer, thus implicitly denying his divinity.

SCENE 4, PLACE: AN ASCETIC COMMUNITY.

Jesus is talking to a man

MAN

The more devils we have inside of us, the more of a chance we have to repent.

JESUS

I am a liar, I am a hypocrite, I am afraid of everything... Lucifer is inside of me. He says to me, "You are not the son of King David. You are not a man. You are the Son of Man and more. The Son of God. And more than that. God.

SCENE 5, JESUS IS SEDUCED

Jesus is seduced by a fallen angel to walk away from the cross in a dream, and he takes Mary Magdalene as his woman and accomplishes his sexual fantasy to have sex with her

SCENE 6, JESUS BECOMES A MORTAL FATHER

Magdalene is struck by a supernatural blow of light, and she dies. Jesus is heartbroken and the fallen angel who seduced him to walk away from the cross returns to console him with:

ANGEL

It was God's way. Listen, there's only one woman in the world - one woman with many faces. This one falls, the next one rises. Mary Magdalene died, but Mary lives through her sister. She lives. She is Magdalene with a different face She's carrying your greatest joy inside her, your son.

SCENE 7, JESUS CONFESSES HIS MISTAKES INCLUDING HIS PATH TO FIND GOD.

JESUS

I'm ashamed when I think of it.

ANGEL

What?

JESUS

Of all the mistakes I've made, of all the wrong ways I've looked for God

SCENE 8, JESUS COMMITS ADULTERY.

Inspired by the fallen angel, Jesus marries Mary, one of the Lazarus sisters and has children with her. One day, Mary is out and he is sitting with Martha, the sister of Mary, and the angel. Jesus and Martha talk.

JESUS

Where's Mary?

MARTHA

She won't be back until this evening. Come inside, it's too hot out here

ANGEL

There's only one woman in the world Go inside

Jesus like a dumb thing goes into the house to have sex with Martha

Although the film shows that Jesus finally returns to the cross and dies on the cross, and the entire episode of his sexual fantasies is a mental freak out, it is established clearly that Jesus had lustful and carnal inclinations with Magdalene, and in his own mind, he was prepared to commit adultery with Mary and Martha, the sisters of his dear friend and disciple Lazarus

17 The Plaintiff alleges that according to EXHIBIT II to this complaint, which gives a cross section of Jesus' life, drawn from biblical records, there was NO LAST TEMPTATION for Jesus on the cross, which is a false story used by the Defendants to defame the person of Jesus Christ According to biblical and

historical records of his life as in the eyewitnesses' statements in the Gospels, Jesus was tempted by the devil before he started his ministry, as recorded in Luke 4:1-13, in Matthew 4:1-11, and Mark 1:12-13, all of which point to the fact that when the devil tempted Jesus to have worldly power and wealth, he resisted him and rebuked him with, "Get thee hence Satan: for it is written thou shalt worship the Lord thy God, and him only shalt thou serve " With this rebuke, Satan left him and the evil spirits knew that he was the anointed one of God (Mark 1:24) There is no reference in the Bible or the Gospels that Satan returned thereafter to tempt the anointed one again. As quoted in EXHIBIT II Jesus was exercising throughout his ministry, his divine power to destroy the works of the devil: healing peoples' sicknesses and delivering them of the evil spirits With this display of awesome Creator power, the devil had no chance to

tempt Jesus again. This power over everything Jesus confesses to his disciples with, "All power is given unto me in heaven and in earth." (Matthew chapter 28, verse 18). Therefore, the "last temptation of Christ" on the cross as portrayed in the said film is totally false and fraudulent, and has been used by the Defendants with the deliberate intention to defame and malign the flawless personality and of Christ - to denigrate his character, that he had lustful intentions and wanted to commit adultery with his own mortal children

In contrast to the false and defamatory portrayal of Jesus' relationship with Magdalene and the Lazarus sisters, the Plaintiff cites EXHIBIT VI, (Appendix: Pgs 88-94),biblical references to prove that the real Jesus Christ had a respectable relationship with Mary Magdalene and the Lazarus sisters Plaintiff asserts, based on EXHIBIT VI,

that both Mary and Martha, as did Lazarus and Mary Magdalene, acknowledged that Jesus was the Christ, the messiah of Israel. Jesus' relationship with Mary Magdalene and the Lazarus sisters was one of pure spiritual love, and nothing carnal. There is no record in the Gospels, or from any other historical source to suggest that Jesus had any carnal relationship, either with the Lazarus sisters, or Mary Magdalene. The Plaintiff therefore alleges that the Principal Defendants' portrayal of Jesus' sexual relationship with the three women was contrived falsely to denigrate and assassinate his character. Plaintiff alleges that beyond the crude and vulgar denigration of Christ's character, the Principal Defendants, in using the defamatory material, sought to carry out an underlying religious message that Jesus of Nazareth was not the Christ -the Messiah the prophets have spoken of - thus

surreptitiously carrying out an anti-Jesus campaign

18. Besides the eyewitness account of the life of Jesus contained in the four Gospels, the salient topics of which have been included in exhibit 11, the Plaintiff draws by reference Part IV of the Urantia Book, which gives the complete life and mission of Jesus Christ, the incarnated CREATOR OF THE UNIVERSE - to establish the immaculate human personality of Jesus, and to prove that the Principal Defendants falsely and recklessly defamed the incarnated Christ in their film, "THE LAST TEMPTATION OF CHRIST " Plaintiff states, based on his information, that the URANTIA PAPERS gives yet another authentic historic version of the life and mission of Jesus, as these Papers have been authored by supernatural beings who were resident in the Planet at the time of the birth and mission of Jesus. EXHIBIT VII (Appendix, Pages 272-288) gives a

glimpse of these papers in the form of selected extracts. The Plaintiff will be ready to provide the entire volume on the life of Jesus, or the entire URANTIA BOOK for the information of this court, if so required.

19. Plaintiff alleges that the Defendants chose to defame the character of Jesus for the dual purpose of profiteering and malice: profiteering by massive propaganda and publicity to the controversial story, and malice through a new propaganda that Jesus was not a perfect man as the Bible portrays, but a weak, imperfect man, not a Savior of sinners, but a sinner himself, not God incarnate but an imperfect man attempting to become God. The key executives and producers of the Principal Defendants have been driven by a spirit of greed and malice to produce a film that ridiculed the impeccable image of Christ and thereby insult millions of true believers of

Christ. The Plaintiff affirms that he is one of such believers of Christ so insulted and ridiculed.

20 Plaintiff affirms his right to defend the religious faith he belongs to, to affirm his religious freedom to worship a Supreme Being of his choice, who is Jesus Christ. Plaintiff alleges that the Defendants have seriously interfered with the Plaintiff's and other believers' religious freedom, by assassinating the character of the Supreme Being he and others believe in. The Defendants have done this recklessly, for profiteering and for promoting their own religious vendetta. They have abused the privilege of the First Amendment, wrongful seeking protection under it while infringing the right of others to freedom of religion and worship which the Constitution guarantees.

21 Plaintiff alleges that the Defendants have no protection of free speech that was false and defamatory, such

as the said film was. The Plaintiff also alleges that the Defendants' film was in effect "spreading false information in and of itself", and therefore had no First Amendment protection. Plaintiff asserts that the Defendants have therefore no right or protection to produce and exhibit the said film, which is a fabricated tissue of falsehood, with the deliberate intent to defame and assassinate the character of Jesus Christ, a public and religious figure.

22. Defendant MCA, INC., through its chairman, Lew Wasserman, was issued a notice by Plaintiff on March 31, 1989, by certified Mail, that the Defendants, by producing and exhibiting the said film, were defaming Jesus Christ, the incarnated CREATOR OF THIS UNIVERSE , and provided additional documentation to the effect that Jesus was indeed the incarnated CREATOR, (from URANTIA PAPERS, copy of extracts included in Exhibit VIII: See

Appendix, Pgs 272-288) Defendants were requested to immediately stop exhibiting the defamatory film Lew Wasserman/ his representative received the certified mail (No: P114039479) on April 5, 1989 Plaintiff received the return receipt on April 7, 1989, a copy of which is included in EXHIBIT VIII Lew Wasserman/his representative kept the certified mail till April 10, 1989 and returned it, manipulating the postal officials, who recorded on the face of the envelope that the certified mail was refused by Lew Wasserman (Copy included in EXHIBIT VIII) Plaintiff therefore alleges that Defendant MCA INC , besides the public objections on the defamatory film, had full knowledge that it was defaming falsely, the public figure of Jesus Christ , THE INCARNATED CREATOR OF THIS UNIVERSE Plaintiff alleges further that the Principal Defendants are still continuing to abuse wrongfully, their First Amendment rights

by exhibiting the film, and are continuing to falsely assassinate the character of Jesus Christ.

23. Plaintiff alleges that the false and fraudulent portrayal of Jesus' character by the Principal Defendants may be taken as real by millions of non-Christian people, in this nation and the rest of the world, who may see the film, hear about its story or read about it, and the chances of Jesus being misunderstood as a TRAITOR, a SINNER and LIAR is greater in the third world, where Christianity is a minority religion. Also,the minority Christians in those nations may be ridiculed and embarrassed and put in a defensive posture by this film which assassinates the character of their God.

24. The Plaintiff submits that if the Defendants are not restrained from exhibiting the said defamatory film, it will damage further the image and character of Jesus Christ, the Creator-

Father of millions of believers in this nation and other nations of the world. Besides, it would permit continued abuse of the First Amendment rights by the Principal Defendants and it will provide further incentive to other film producers to make such films defaming Christ even more, and make films on other public and religious figures falsely and with impunity, in the garb of fiction or art.

(Plaintiff submits that the abuse of art to denigrate Jesus Christ has been exploited by an artist. This time, it isn't just denigration of his character, but Jesus and his crucifix, the symbol of faith of millions of believers, have been drowned physically in the artist's urine itself.)

SECOND CAUSE OF ACTION

INTERFERENCE AND INFRINGEMENT OF RELIGIOUS FREEDOM.

25 Plaintiff incorporates herein by reference, paragraphs 1 to 24 of the complaint

26 Plaintiff states that he did see the film when it was released, and he was offended and shocked by the film. Plaintiff believes, based on his information, parts of which are included in EXHIBIT I (See Appendix, Pages 6-16), that the Defendants, by degrading the public figure of Jesus Christ, have sought to disturb the harmony, tranquility and peace of individuals, families and communities in this nation, which the Constitution seeks to secure The Defendants, by their callous disregard to the religious rights of the Plaintiff and such other people, have caused great injury to their religious self-respect, decorum and pride of worship, in this nation and other nations of the world. The damage caused by the Defendants to the believers of the world is substantial, as

the film ridicules their faith and insults the central core of their worship, which is difficult especially for the young children to understand and cope with To the young children exposed to the adverse propoganda of the film through the media, it would be difficult for them to discriminate whether Jesus was a sinner or not? Did God have sex with his own children? Was he a coward, a liar and a traitor? Was he demon possessed?

27 The Plaintiff alleges that the Principal Defendants and their key officers have wilfully sought to defame Jesus Christ, because they by and large do not share in the religious sentiments and beliefs of those demoralized by their film The Plaintiff alleges further that the Principal Defendants would never have produced a film of this kind for worldwide distribution, if it would wound in any way, the religious sentiments of their own faith and community They have thus sought

to ride roughshod over the beliefs and sentiments of others because of their perverted religious zeal, to insult one of the world's largest faiths.

28. The Plaintiff alleges that the Defendants in taking the First Amendment to their protection and advantage, have not considered the rights of the Plaintiff and others, which the Constitution guarantees by way of religious freedom. The Plaintiff submits the First Amendment "will not enforce freedom of speech in disregard to the rights of others," and therefore, the Defendants have no right to exhibit the defamatory film, as it infringes the freedom of religion and worship of the Plaintiff and other believers.

THIRD CAUSE OF ACTION

INJURY

29 Plaintiff incorporates herein by reference, paragraphs 1 to 24 and 26 to 28 to the complaint.

30 Plaintiff alleges that the Defendants have humiliated, demoralized, agonized and mentally disturbed the Plaintiff and millions of believers of Jesus Christ in this nation and other countries of the world by portraying their God, Creator and Savior falsely and deliberately in the said film as a sinner, liar and a moral wreck

31 The Defendants by the above described defamation have attempted to demolish the immaculate image of Christ which millions of believers of Christ hold as personal and sacred, and thereby caused immeasurable harm to their mental, psychological and spiritual health The Plaintiff alleges that these damages will have far reaching consequences on his peace and welfare and that of many individuals and their families, especially young children, who may be demoralized by the said film which depicts Christ, their Savior, - the focus of their Sunday school

inspiration,- as a sinful, lying, weak, incestuous and adulterous character

FOURTH CAUSE OF ACTION.

DEFAMATION OF THE GOD OF THE REPUBLIC.

32 The Plaintiff incorporates herein by reference, para 1 to 24, and 26 to 28 to the complaint

33 Plaintiff alleges that the Defendants not only defamed Jesus Christ, but in truth have defamed the CREATOR OF THE UNIVERSE, as evidenced in the Urantia Paper No: 120 included in EXHIBIT VII (See Appendix, Pgs 272-288) This is the CREATOR the framers of the Constitution recognized The Plaintiff alleges further that the Defendants have ridiculed the Constitution by defaming the GOD which this nation trusts and worships ("In God We Trust ") The Plaintiff alleges furthermore that the Defendants are wilfully and falsely, and with full knowledge - inspite of due notice to Defendant MCA, INC, given by the

Plaintiff, continuing to defame the GOD and CREATOR OF THIS UNIVERSE by exhibition of the said film

FIFTH CAUSE OF ACTION

PERMANENT INJUNCTION

34 Plaintiff incorporates by reference, paragraphs 1 to 24, 26 to 28, 30, 31 and 33 to the complaint

35 Plaintiff alleges that the Defendants' misrepresentation and defamation of the public and religious figure of Jesus Christ and assassination of his character through the said film will continue, the injury caused by such a defamatory publication to the Plaintiff and all believers of Christ in all the nations of the world will also continue unless and until the Defendants' wrongful actions are enjoined by the order of this court

36 The Plaintiff submits that the Defendants have misrepresented the facts of their defamation of Christ through

media publicity, and used the media they can influence to justify their offence and cover up their default. Whereas the Plaintiff and millions of individual believers have no such comparable access and resources to rebuttle and expose the defamatory acts of the Defendants and inform the public of all their deeds.

37 The Plaintiff submits that he has no adequate remedy at law for the damages caused falsely and wilfully by the Defendants in the said film, to the person of Christ, his Spiritual Father, and resultant injuries suffered by the Plaintiff and millions of believers of Christ, unless the Defendants' exhibition of the film is restrained.

38 Plaintiff will amend this petition at a later date to include damages, including punitive damages.

Wherefore Plaintiff prays judgement against Defendants as follows:

ON ALL CAUSES OF ACTION:

A. For a permanent injunction, all enjoining Defendants and each of them, their agents, servants and employees and all persons acting in concert for them from further publication or distribution of the said film, THE LAST TEMPTATION OF CHRIST, including video cassettes and all other film material in any other electronic or film format, in all media, in all territories of the United States and the rest of the world, and destruction of all negatives, positives, prints, tapes, books, records and advertisement

ON ALL CAUSES OF ACTION:

B. For costs of the suit incurred herein; and

C. For such other and further relief as the court deem proper

Dated Aug 7, 1989

Respectfully submitted

(VEDA NAYAK)

(PLAINTIFF PRO SE)

BIBLICAL REFERENCES TO DEFINE THE DIVINE

AND

HUMAN CHARACTER OF CHRIST.

(HOLY BIBLE, FAMILY FAITH EDITION).

EXTRACTS ON THE DIVINITY

AND HUMANITY OF CHRIST.

1 JESUS IS CHRIST - GOD INCARNATE.

(a). ISAIAH: "Therefore the Lord himself shall give you a sign Behold a virgin shall conceive and bear a son and shall call his name IMMANUEL". (Isaiah chapter 7, verse 14) (* Immanuel means "GOD WITH US ")

(b) MICAH: "But thou Bethlehem Eph'ra-tah, though thou be little among the thousands of Judah, yet out of thee shall he come forth unto me that is to be ruler in Israel, whose goings forth have been from old, from EVERLASTING" (Micah chapter 5, verse 2)

DIVINITY OF CHRIST:

(c) ISAIAH: "The voice of him (John the Baptist) that crieth in the wilderness, Prepare ye the way of the LORD (Christ), make straight in the desert a highway for our Lord (Isaiah chapter 40, verse 3)

(d) ISAIAH: "Hearken unto me, O Jacob and Israel, my called; I am he, I am the first, I am also the last. Mine hand also laid the foundation of the Earth and my right hand hath spanned the heavens: when I call unto them, they stand up together . Come ye,hear unto me, hear ye this; I have not spoken in secret from the beginning; from the time it was there am I: and now the Lord God, and his spirit hath sent me (Isaiah chapter 48, verse 12-13 and 16)

(e) JEREMIAH: "Behold the days come, saith the Lord, that I will raise unto David a righteous Branch, and a king shall reign and prosper and shall execute judgement and justice in the earth. In his days Judah shall be saved and Israel shall dwell safely and this is the name whereby he shall be called, THE LORD OF OUR RIGHTEOUSNESS." (Jeremiah chapter 23, verses 5-6)

(f). JOHN THE BAPTIST (about Christ): "He that cometh from above is above all; he that is of the earth is earthly, and speaketh of the earth. he that cometh from heaven is above all. The Father loveth the Son and hath given all things into his hand. He that believeth on the Son hath everlasting life: and he that believeth not the Son shall not see life; but the wrath of God abideth on him." (John's Gospel, chapter 3, verses 31,35,36)

(g). JOHN THE BAPTIST (*about Christ): "And I knew him not: but he that sent me to baptize with water, the same said unto me, upon whom thou shalt see the spirit descending and remaineth on him, the same is he which baptizeth with the Holy Ghost. And I saw and bore record that this is THE SON OF GOD." (John's Gospel, chapter 1,verses 33-34)

(h). JOHN, THE DISCIPLE OF JESUS (about Jesus): "All things were made by

him; and without him was not made anything that was made. In him was life and the life was the light of men... That was the TRUE LIGHT, which lighteth every man that cometh into the world. He was in the world and the world was made by him and the world knew him not. He came unto his own and his own received him not. But as many as received him, to them he gave the power to become sons of God, even to those that believe on his name. Which were born not of blood, nor of the will of the flesh, nor of the will of man, but of God. And the WORD (Christ) was made flesh and dwelt among us and we beheld his GLORY, as of the only begotten of the FATHER, full of GRACE AND TRUTH." (John chapter 1, verses 3,4,9 to 14)

(1) ST. PAUL (on Christ): "For by him were all things created that are in heaven and that are in earth, visible and invisible, whether they be thrones or dominions, or principalities or powers:

all things were created by him and for him " (Colossians chapter 1,verses 16,17).

CHARACTER AND HOLINESS OF CHRIST.

(j) THE PSALMIST (about Christ): "For the Lord is our defence and the HOLY ONE of Israel is our king Then thou speakest in vision to thy HOLY ONE and saidst, I have laid upon one that is mighty; I have exalted one chosen out of the people " (Psalm 89, verses 18,19)

(k) MAN POSSESSED (about Christ): "What have we to do with thee,thou Jesus of Nazareth? art thou come to destroy us? I know thou thee who thou art, the HOLY ONE OF GOD " (Mark chapter 1, verse 24).

(l) ST PAUL(about Christ - sinless): "For he hath made him to be sin for us, WHO KNEW NO SIN; that we might be made the righteous of God in him " (2 Corinthians ,chapter 5, verse 21)

(m) ST PETER (Of Christ): "But ye denied the HOLY ONE and the JUST and desired a murderer to be granted unto you;

And killed the PRINCE OF LIFE, whom God hath raised from the dead; whereof we are WITNESSES." (Acts 3:14-15).

(n) ST PETER (Of Christ): "WHO DID NO SIN, neither was guile found in his mouth "(1 Peter chapter 2, verse 22).

(o) ISAIAH (Of Christ): "And RIGHTEOUSNESS shall be the girdle of his loins and FAITHFULNESS, the girdle of his reins " (Isaiah chapter 11, verse 5).

(p) ST JOHN (Of Christ): "And we know that the Son of God is come, and hath given us an understanding, that we may know him that is TRUE, even Jesus Christ This is the TRUE GOD and ETERNAL LIFE. (1 John chapter 5, verse 20)

(q) JESUS CHRIST ON HIS MISSION: "I am the light of the world, he that followeth me shall not walk in darkness but shall have the light of life... And he that sent me is with me, the Father hath not left me alone for I do always those things that please him ..If God were your

Father, ye would love me; for I proceeded forth and came from God: neither came I myself, but he sent me. yet ye have not known him and if I say I know him not, I shall be a LIAR like unto you: but I KNOW him and keep his saying " (John chapter 8, verses 12,29,42, and 55)

BIBLICAL EXTRACTS ON THE LOVE, COMPASSION AND MINISTRY OF JESUS.

(a). Jesus healed a noble man's son: (John 4:46-54)

(b) Many sick healed: (Luke 4:42-44, Mark 1:35-39)

(c) A paralytic healed:(Mark 2:1-12, Matt 9:1-8, Luke 5:17-26)

(d) Widow's son raised from the dead: (Luke 7:11-17)

(e) Demoniac healed:(Mark 5:1-20, Matt 9:18-26, Luke 8:40-56)

(f) Blind man healed: (Matt 9:27-31)

(g) Dumb man healed: (Matt 9:32-34).

(h). Raising Lazarus from the dead: (John 11:1-46).

(i). Ten lepers healed: (Luke 17:11-19).

(j). Feeding the people: (Matt 14:15-21, Mark 6:35-44, Luke 9:12-17, John 6:14,15).

BIBLICAL EXTRACTS ON THE LOVE AND COMPASSION OF JESUS:

ISAIAH (On Christ): "He shall feed his flock like a shepherd: he shall gather the lambs with his arm and carry them in his bosom, and gently lead those with young "(Isaiah chapter 40, verse 11).

MATTHEW: "And Jesus went forth and saw a great multitude and was moved with compassion toward them and he healed their sick (Matthew chapter 14, verse 14).

MATTHEW: "Then Jesus called his disciples unto him and said, I have compassion on the multitude, because they continue with me now three days and have nothing to eat: and I will not send them

away fasting, lest they faint on the way " (Matthew chapter 15, verse 32)

BIBLICAL EXTRACTS TO PROVE JESUS' KNOWLEDGE OF HIS MESSIANIC ROLE.

JESUS(*On his mission): "I am the good shepherd and know my sheep and am known of mine As the Father knoweth me, even so know I the Father, and I lay down my life for the sheep " (John chapter 10, verses 14-15)

JOHN'S GOSPEL: "The woman saith unto him (Jesus), I know that the Messiah cometh, which is called the Christ: When he is come, he will tell us all these things Jesus saith unto her, I THAT SPEAK UNTO THEE AM HE "(John chapter, verses 25-26)

JESUS(On his mission): "For as the Father hath life in himself: so hath he given to the Son to have life in himself And hath given him authority to execute judgement also because he is the SON OF MAN I can of mine own self do nothing:

as I HEAR I judge and my judgement is just: because I seek not mine own will but the will of the Father which hath sent me " (John chapter 5, verses 26,27 and 30).

JESUS(* On his mission): "For I came down from heaven not to do mine own will, but the will of him that sent me And this is the Father's will which hath sent me, that of all which he hath given me I should lose nothing,but should raise it up again at the last day And this is the will of him that sent me that everyone which seeth the Son and believeth on him may have everlasting life: and I WILL RAISE HIM UP on the last day " (John chapter 6, verses 38-40).

JESUS(On himself and his Father): "I am the WAY, the TRUTH and the LIFE: No man cometh unto the Father but by me Philip saith unto him, Lord, show us the Father and it sufficeth us Jesus saith unto him, Have I been so long time with you, and yet

hast thou not known me, Philip? HE THAT HATH SEEN ME HAS SEEN THE FATHER, and how sayest thou then, show us the Father? Believest thou not that I am in the Father, and the Father is in me? the words that I speak unto you, I speak not of myself but the Father that dwelleth in me, he doeth the works Believe me that I am in the Father, and the Father in me: or else believe me for the very works' sake " (John chapter 14, verses 6,9,10 and 11).

JESUS' RELATIONSHIP WITH MARY MAGDALENE (FROM THE GOSPELS):

ST LUKE - THE GOSPEL WRITER: "And it came to pass afterward, that he went throughout every city and village, preaching and shewing the glad tidings of the kingdom of God: and the twelve were with him, And certain women, which had been healed of evil spirits and infirmities, Mary called Magdalene, out of whom went seven devils " (Luke chapter 8, verses 1,2)

JOHN THE DISCIPLE: "The first day of the week cometh Mary Magdalene early, when it was yet dark, unto the sepulchre, and seeth the stone taken away from the sepulchre. Then she runneth, and cometh to Simon Peter, and to the other disciple, whom Jesus loved, and saith unto them, They have taken away the Lord out of the sepulchre, and we know not where they have laid him. Peter therefore went forth, and that other disciple, and came to the sepulchre. So they both ran together: and the other disciple did outrun Peter, and came first to the sepulchre. And he stooping down and looking in, saw the linen clothes lying; yet he went not in. Then cometh Simon Peter following him, and went into the sepulchre, and seeth the linen clothes lie, And the napkin, that was about his head, not lying with the linen clothes, but wrapped together in a place by itself. Then went in also that other disciple, which came first to the

sepulchre, and he saw, and believed For as yet they knew not the scripture, that he must rise again from the dead Then the disciples went away again unto their own home But Mary stood without at the sepulchre weeping: and as she wept, she stooped down, and looked into the sepulchre, And seeth two angels in white sitting, the one at the head, and the other at the feet, where the body of Jesus had lain And they say unto her, Woman, why weepest thou? She saith unto them, Because they have taken away my Lord, and I know not where they have laid him And when she had thus said, she turned herself back, and saw Jesus standing, and knew not that it was Jesus Jesus saith unto her, Woman, why weepest thou? whom seekest thou? She, supposing him to be the gardener, saith unto him, Sir, if thou have borne him hence, tell me where thou hast laid him, and I will take him away Jesus saith unto her, Mary She turned

herself, and saith unto him, Rabboni; which is to say, Master. Jesus saith unto her, Touch me not; for I am not yet ascended to my Father: but go to my brethren, and say unto them, I ascend unto my Father, and your Father; and to my God, and your God. Mary Magdalene came and told the disciples that she had seen the Lord, and that he had spoken these things unto her." (John chapter 20, verses 1 to 18)

JESUS' RELATIONSHIP WITH MARY AND MARTHA, THE SISTERS OF LAZARUS (FROM THE GOSPELS):

JOHN THE DISCIPLE: "And many of the Jews came to Martha and Mary, to comfort them concerning their brother. Then Martha, as soon as she heard that Jesus was coming, went and met him: but Mary sat still in the house. Then said Martha unto Jesus, Lord, if thou hadst been here, my brother had not died. But I know, that even now, whatsoever thou wilt ask of God, God will give it thee. Jesus saith unto her, Thy brother shall rise again. Martha

saith unto him, I know that he shall rise again in the resurrection on the last day. Jesus said unto her, I am the resurrection and the life: he that believeth in me, though he were dead, yet shall he live: And whosoever liveth and believeth in me shall never die. Believest thou this? She saith unto him, Yea, Lord: I believe that thou art the Christ, the Son of God, which should come into the world. Then when Mary was come where Jesus was, and saw him, she fell down at his feet, saying unto him, Lord, if thou hadst been here, my brother had not died. When Jesus therefore saw her weeping, and the Jews also weeping which came with her, he groaned in the spirit, and was troubled, And said, Where have ye laid him? They said unto him, Lord, come and see. Jesus wept. Then said the Jews, Behold how he loved him! And some of them said, Could not this man, which opened the eyes of

the blind, have caused that even this man need not have died? Jesus therefore again groaning in himself cometh to the grave It was a cave, and a stone lay upon it Jesus said, Take ye away the stone. Martha, the sister of him that was dead, saith unto him, Lord, by this time he stinketh: for he hath been dead four days Jesus saith unto her, Said I not unto thee, that, if thou wouldst believe, thou shouldest see the glory of God? Then they took away the stone from the place where the dead was laid. And Jesus lifted up his eyes, and said, Father, I thank thee that thou hast heard me. And I knew that thou hearest me always: but because of the people which stand by I said it, that they may believe that thou hast sent me. And when he thus had spoken, he cried with a loud voice, Lazarus, come forth. And he that was dead came forth, bound hand and foot with grave clothes: and his face was bound about with a napkin. Jesus saith

unto them, Loose him and let him go (John chapter 11, verses 19-27, 32-44)

JOHN THE DISCIPLE: "Then Jesus six days before the passover came to Bethany, where Lazarus was which had been dead, whom he raised from the dead There they made him a supper, and Martha served: but Lazarus was one of them that sat at the table with him Then took Mary a pound of ointment of spikenard, and anointed the feet of Jesus, and wiped his feet with her hair: and the house was filled with the odour of the ointment Then saith one of his disciples, Judas Iscariot, Simon's son, which should betray him, Why was not this ointment sold for three hundred pence, and given to the poor? This he said, not that he cared for the poor; but because he was a thief, and had the bag, and bare what was put therein Then said Jesus, Let her alone: against the day of my burying hath she kept this (John 12: verses 1-6)

EDITOR'S NOTE:

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

90-939 (2)

Supreme Court, U.S.
FILED
DEC 13 1990
JOSEPH F. SPANIOL, JR.
CLERK

NO:

IN THE

SUPREME COURT

OF THE

UNITED STATES

OCTOBER TERM 1990.

VEDA NAYAK,

Petitioner (Plaintiff)

-against-

MCA, INC. et al,

Respondents (Defendants)

PETITION FOR A WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

VEDA NAYAK
4770, W. Bellfort,
Suite 285
Houston, TX 77035.
(713)684-6552.

APPENDIX VOL. II

TABLE OF CONTENTS

APPENDIX: VOL I

		Page
1	Judgment of the United States Court of Appeals for the Fifth Circuit; September 17 1990	1
2	Press Reports and other related information	6
3	Plaintiff's original complaint filed with the U S District Court, Southern District of Texas	34
4	Biblical Extracts Outline on the life of Jesus	78

APPENDIX: VOL II

5	Defendants' Motion to Dismiss for failure to state a claim	95
6	Plaintiff's response to Defendants' Motion to Dismiss	104
7	Judgment of the District Court	151
8	Plaintiff-Appellant's Brief to the Court of Appeals, Fifth Circuit	152
9	Appellees' Reply Brief	219
10	Appellant's response to Appellees' Brief	235
11	Extracts from The Urantia Book	263
12	Comparison between the New Testament and the film LTC	289
13	Comparison of "Touching" with transcript in Bindrim v Mitchell	298
14	Definition of Christianity	301
15	Definition of the Bible	305

NOTE: For this presentation, for easy reference, the internal page numbers of references are made consistent with each other, although such references may have appeared with different page numbers in submission to courts below

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

VEDA NAYAK,	)	
	)	
Plaintiff,	)	
	)	
	)	CIVIL ACTION
v	)	
	)	NO H-89-2695
	)	
MCA, INC , et al	)	
	)	
Defendants	)	

DEFENDANTS' MOTION TO DISMISS FOR

FAILURE TO STATE A CLAIM

Pursuant to Rule 12(b)(6), all defendants move to dismiss the complaint for failure to state a viable claim:

I . The nature of plaintiff's attack on "The Last Temptation of Christ"

In his complaint, the plaintiff seeks an injunction against further distribution of the film "The Last Temptation of Christ " Basically, the plaintiff alleges that the film gives a false, sacrilegious

version of the life of Christ. He alleges five causes of action:

--(a) "Defamation of the person of Jesus Christ"

--(b) "Interference and infringement of religious freedom

--(c) "Injury"

--(d) "Defamation of the God of the Republic"

--(e) "permanent injunction."

The defendants submit that the plaintiff's complaint should be dismissed, both under federal constitutional grounds and under common-law tort principles.

2. It would violate the Constitution for any court to try this case.

This case posits a theological controversy. The plaintiff reads the Bible one way. He asserts that the film's interpretation is different and wrong, and that it defames Christ and God. In order to resolve his claim, the district court

would have to determine the "true" story of Christ

This case raises exactly the sort of religious issue that courts may not decide Under the First Amendment's free speech, free exercise and establishment clauses, such an issue is non justiciable:

> The law knows no heresy, and is committed to the support of no dogma the establishment of no sect . . Freedom of thought, which includes freedom of religious belief, is basic in a society of free man It embraces the right to maintain theories of life and death and of the hereafter which are rank heresy to followers of the orthodox faiths Men may believe what they cannot prove They may not be put to the proof of their religious doctrine or beliefs . . Many take their gospel from the New Testament But it would hardly be supposed that they could be tried before a jury charged with the duty of

determining whether those teachings contained false representations . . . The religious views espoused by respondents might seem incredible, if not preposterous, to most people But if those doctrines are subject to trial before a jury charged with finding their truth or falsity, then the same can be done with the religious beliefs of any sect When the triers of fact undertake the task, they enter a forbidden domain

U S v Ballard, 322 U S 78, 86-87, 64 S Ct 882, 886-887 (1944)

Thus, the Supreme Court has held that no court could determine whether the film, "The Miracle" was unlawfully "sacrilegious":

(I)t is enough to point out that the state has no legitimate interest in protecting any or all religions from views distasteful to them which is sufficient to justify prior restraints upon the expressions of those views

> It is not the business of government in our nation to suppress real or imagined attacks upon a particular religious doctrine, whether they appear in publications, speeches, or motion pictures

Joseph Burstyn, Inc v Wilson, 343 U S 495, 505, 72 S Ct 777, 782 (1952) See also, e g , Presbyterian Church in the U S v Mary Elizabeth Blue Hull Memorial Presbyterian Church, 393 U S 440, 450, 89 S Ct 601, 606-607 (1969) (the First Amendment forbids civil courts from interpreting church doctrine); Cantwell v Connecticut, 310 U S 296, 310, 60 S Ct 900, 906(1940) (under the Constitution, the religious advocate may resort "to exaggeration, to vilification of men who have been, or are, prominent in church or state, and even to false statement"); Crowder v Southern Baptist Convention, 828 F 2d 718, 721 (11th Cir 1987), cert denied, 484 U S 1066 (1988) ("By

adjudicating religious disputes, civil courts risk affecting associational conduct and thereby chilling the free exercise of religious beliefs. Moreover, by entering into a religious controversy and putting the enforcement power of the state behind a particular religious faction, a civil court risks [illegible] 'establishing' a religion") cert. denied, 108 S Ct. 1028 (1988).

These principles apply just as much in a defamation suit as in any other context. See Paul v. Watchtower Bible & Tract Society, 819 F.2d 875, 883 (9th Cir.), cert denied, 484 U.S. 926(1987) ("offense to someone's sensibilities resulting from religious conduct is simply not actionable in tort"); cf. New York Times Co. v. Sullivan, 376 U.S. 254, 84 S Ct. 710(1964) (state libel laws are subject to First Amendment constraints.)

B. Common law tort principles bar this action.

The constitutional grounds are sufficient to warrant dismissal. The defendants submit, however, that dismissal is also required under basic principles of Texas defamation law:

--(a) There is no defamation action in favor of a plaintiff who is not injured in his own reputation. See, e.g., Newspapers, Inc. v. Matthews, 339 S.W.2d 890, 893 (Tex. 1960) ("the asserted libel must refer to some ascertained or ascertainable person, and that person must be the plaintiff"); Renfro Drug Co. v. Lawson, 160 S.W.2d 246 (Tex. 1942) (no recovery for defamation of the dead); Goldstein v. KDFW, 541 S.W.2d 862, 864 (Tex. Civ. App. - Waco 1976, writ ref'd n.r.e.); Gonzales v. Times Herald Printing Co., 513 S.W.2d 124, 125-126 (Tex. Civ. App. - Dallas 1974, no writ) (no recovery for defamation of the dead); Keys v. Interstate Circuit, Inc., 468 S.W.2d 485, 486 (Tex. Civ. App. - Tyler 1971, writ

dis'd w.o.j.) (no recovery by survivors of Clyde Barrow for depiction in the film "Bonnie and Clyde"); Barrow v. Enterprise Co., 387 S.W.2d 426 (Tex. Civ. App. - Beaumont 1964, no writ); Dick v. Allen, 303 S.W.2d 390, 391 (Tex. Civ. App. - Eastland 1957, no writ).

--(b) Opinions may not be the subject of a defamation suit:

> Under the First Amendment there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas.

A H Bel Corp. v. Rayzor, 644 S.W.2d 71, 79 (Tex. App. - Ft. Worth 1982, writ ref'd n.r.e.), quoting Gertz v. Robert Welch, Inc., 418 U.S. 323, 94 S.Ct. 2997 (1974).

4. Conclusion

The defendants do not question the sincerity of the plaintiff's own views. Under well-established principles,

however, it is clear that the plaintiff may not use the courts as a vehicle for penalizing those who may not agree with him

The complaint should be DISMISSED

Respectfully submitted,

JAMES T MCCARTT(sd)

James T McCartt
Southern District Bar No 2768
5100 First Interstate Bank Plaza
1000 Louisiana
Houston, TX 77002-5096
(713)651-9366

Attorney in charge for the Defendants

(TRUE COPY)

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION.

VEDA NAYAK	)	CIVIL ACTION No:
	)	
Plaintiff	)	H-89-2695.
	)	
	)	
vs.	)	
	)	
	)	
MCA, INC. et al.,	)	
	)	
Defendants.	)	

RESPONSE TO DEFENDANTS MOTION TO DISMISS

UNDER RULE 12(b)(6).

I

Plaintiff submits to deny various allegations and points cited in the above mentioned Defendants' motion to dismiss. Plaintiff reaffirms his original claims in the complaint which are viable and justiciable under the constitutional law. The Defendants have inter-alia admitted Plaintiff's major issues and claims from the complaint in para 1 of their motion,

which they could not have stated if there were no claims. Plaintiff specifically denies Defendants' statements that it would "violate the constitution for any court to try this case". Plaintiff submits that this court has jurisdiction to try this case under federal constitutional law - to protect the rights of the Plaintiff and do justice to the third party he represents. Plaintiff further submits that the Defendants' right to freedom of speech, expression or opinion is not unrestricted under the constitutional law as the Plaintiff will unfold in this petition. In addition, Plaintiff submits that Plaintiff's basic assertions in his original complaint are "issues of fact" and not of "opinion". The Defendants allude in their motion that their film, "THE LAST TEMPTATION OF CHRIST", hereinafter ""LTC"", is a matter of their "opinion" of Christ, and therefore, has First Amendment protection, whereas

Plaintiff affirms they are not "opinion" but "issues of fact", which only a triar of fact may determine, and therefore, may not be disposed of by this court on a summary basis as further substantiated below

The Plaintiff further submits to this court that the Defendants have misinterpreted and misquoted in their motion (para 1), Plaintiff's basic allegations in his original complaint. Plaintiff has not alleged that the film "LTC" was "sacrilegious" to the person of Christ, but a tissue of false defamation, which the First Amendment does not protect as "free speech". The term "sacrilegious" does not apply to a deity person, but to "sacred things" as contained in Joseph Burstyn, Inc. vs Wilson (343 US 524)

"The definitions given for "sacrilege" by two dictionaries published in 1742 and 1782 are typical. Bailey's defined it as "the stealing of sacred

things, Church Robbing; Barclay's said it is "the crime of taking any thing dedicated to divine worship, or profaning any thing sacred".

The Plaintiff has no case that has anything to do with the term "sacrilege". Plaintiff does not represent in his case, any church or denomination, and does not subscribe to a particular theology other than the universal gospel of Christ, his life and mission, and in so doing, asserts his freedom of religion, which the Defendants have interfered with. Plaintiff does not interpret the "bible in one way" as the Defendants wrongly allege. The basic premise in Plaintiff's case, as stated earlier, is an issue "fact" on the life and times of Jesus as based on authoritative sources as opposed to the false and frivolous portrayal of Jesus in the Defendants' film "LTC" with a deliberate intent to assassinate Christ's character with malice and premeditation.

Such an act, the Plaintiff submits, has no protection under the First Amendment.

Plaintiff therefore submits that the Defendants motion under rule 12(b)(6) is untenable and should be dismissed.

II

Plaintiff submits that the Defendants' constitutional grounds and citations in para 2 of their motion for dismissal is inapplicable, inappropriate and irrelevant to Plaintiff's complaint, and the stated issues in the complaint, as follows:

(a) Plaintiff asserts that his complaint is not an exercise in theological controversy, and the Defendants have no standing as a theological body. The Principal Defendants (MCA, INC. and Cineplex Odeon Corporation (USA), are not chartered as a church or religious body under California State Law, and they have not produced the film "LTC" in the capacity of a religious body. The

Principal Defendants are chartered as profit making corporations in motion picture business, and the said film, "LTC" as alleged in Plaintiff's original complaint, was exhibited by the Defendants with prior knowledge that it will defame and insult the character of Jesus Christ, and that it was opposed to the historical and biblical "facts" on the life and mission of Jesus Christ. Plaintiff reiterates that the issues of defamation cited in Plaintiff's complaint are not his "opinion" on the Bible, but are issues of "fact" as universally understood about the person of Christ, and are therefore triable and justiciable

(b). U.S. vs. BALLARD (322 U.S.78), which the Defendants have quoted is inapplicable in their favor because it upheld the religious freedom of Ballard et al, a religious sect per se, whose free exercise of religion was infringed upon by the State. The State action was considered

unconstitutional under the "establishment" clause by the Supreme Court. There are no such state action or establishment conflicts involved in the Plaintiff's case. Ballard did not involve false defamation of any person such as in the Plaintiff's case, and therefore, the citation is not quite relevant.

(c). JOSEPH BURSTYN, INC. vs. WILSON (343 US 495), cited by the Defendants, is similar to Ballard and therefore, is also inapplicable in the Plaintiff's case. The case involved New York State action to censor the film "Miracle", placing a prior restraint on the basis of a censor's opinion, which was found by the Supreme Court as violating the First Amendment rule. Plaintiff may point out however, that the issue was not on just censorship, but on "unbridled censorship". Also, it was not the opinion of the court that the motion picture industry had unilateral

license to exhibit any film. The court said inter-alia:

"If there be capacity for evil, it may be relevant in determining the permissible scope of community control, but it does not authorize substantially unbridled censorship such as we have here...It does not follow that the Constitution requires absolute freedom to exploit every motion picture of every kind at all times at all places. That much is evident from the series of decisions of this court with respect to other media of communication of ideas." (343 US 502- 503).

Joseph Burstyn vs. Wilson's case, in the court's opinion, involved arbitrary New York censorship standards, which were constitutionally vague and therefore considered by the Supreme Court as difficult to administer. The court held that the word "sacrilegious" was ill defined for the purposes of censorship

standards. Besides, the film "Miracle" did not falsely defame or insult Christ or any other deity or religious figure per se as the Defendants' film "LTC" does with impunity, and therefore, this citation too is not a defense in favor of the Defendants.

The latter part of the above mentioned Supreme Court's opinion held that not all films can have First Amendment protection, which is applicable to the Plaintiff's case. Therefore, the Defendants' have no unbridled license under the First Amendment to exhibit the film "LTC", in so far as it defames falsely, the person of Jesus Christ, interferes with and infringes the freedom of worship of the Plaintiff.

The rest of the citations quoted by the Defendants unde. para 2 of their motion are also inapplicable and irrelevant to the Plaintiff's case for the following reasons:

(d) PRESBYTERIAN CHURCH IN THE U.S. vs MARY ELIZABETH BLUE HULL MEMORIAL PRESBYTERIAN CHURCH (393 US 440): This is a dispute between two churches and under the constitutional principle of separation of church and state, the Supreme Court held that it may not interfere with the internal disputes of the church concerning a church property. Neither the Plaintiff nor the Defendants in the dispute over the film, "LTC", are part of a "church" for the purposes of this litigation and therefore, the quoted citation is inapplicable and irrelevant. Also, in the Presbyterian church case, there was no issue of false defamation of a religious figure, which is the central issue in the Plaintiff's case. The Defendants' citation is therefore, dissimilar to the Plaintiff's case on "LTC" as to the parties, relationship of parties to each other, nature of dispute and type of issues.

(e). CANTWELL vs. STATE OF CONNECTICUT (310 US 296): This citation too, is inapplicable and irrelevant because like Ballard, discussed before, it was a question of state intervention in matters of religious freedom of an individual. The case is not similar either as to parties or to the nature of issues such as the Plaintiff's case.

(f) CROWDER vs. SOUTHERN BAPTIST CONVENTION (828 F.2d 718): This case cited by the Defendants, is similar to the Presbyterian Church case discussed above, involving church dispute. The Court of Appeals did not enter into the dispute under the principles of separation of Church and State. Therefore, it is also inapplicable and irrelevant to the Plaintiff's case as to parties, relationship of parties to each other, nature of dispute and type of issues. It may again be repeated that neither the Plaintiff nor the Defendants in the "LTC"

case are part of the "church". Neither does the Plaintiff's case involve any "establishment" issue

(g) PAUL vs WATCHTOWER BIBLE AND TRACT SOCIETY (819 F 2d 875): This case, like Presbyterian Church and Crowder stated above, is a dispute between members of the church of Jehovah's witnesses and the church itself, an internal matter, therefore both the District Court and Court of Appeals would not intervene under the principles of separation of Church and State and the governing rule of ecclesiastical abstention This too, is dissimilar, irrelevant and inapplicable to Plaintiff's case on "LTC" as to parties, relationship of parties to each other, nature of dispute and type of issues

(h) Lastly, the Defendants have quoted NEW YORK TIMES CO vs SULLIVAN that "State libel laws are subject to First Amendment constraints " Plaintiff has no quarrel with this assertion, but it

is irrelevant to Plaintiff's case, as he has not cited any State Law to back up his claim On the contrary, New York Times Co Vs Sullivan would be in favor of the Plaintiff, as it rightly resolves the broader issue of "Defamatory falsehood with malice" as unprotected speech under First Amendment, which is the Plaintiff's claim in his complaint, and therefore, cannot be dismissed summarily without a trial

> "It does indeed go without saying that an official, who is in fact guilty of using his powers to vent his spleen upon others, or for any other personal motive not connected with the public good, should not escape liability for the injuries he may so cause; and, if it were possible in practice to confine such complaints to the guilty, it would be monstrous to deny recovery " (NEW YORK TIMES CO vs SULLIVAN: 376 US 302)

Plaintiff submits that based on the discussion in II above, on constitutional grounds, the Defendants have no grounds to press for a summary judgement before a trial

III.

In New York Times Co. vs Sullivan (376 US 277), the Supreme Court observed: "What a State may not constitutionally bring about by means of criminal statute is likewise beyond the reach of its civil law of Libel " Plaintiff submits that if the Defendants cannot substantiate their motion on constitutional grounds as discussed in II above, they cannot substantiate their motion on Texas Libel law Furthermore, the Plaintiff has not filed his case invoking any State Law, and his case has not been under the jurisdiction of the State of Texas before However, Plaintiff may substantiate below that the Defendants claim for a dismissal of Plaintiff's petition, in principle,

does not even meet state standards without prejudice to Plaintiff's position that he is not governed by Texas State Law in his dispute with the Defendants on "LTC", as the film's distribution is an inter-state matter, and therefore, a matter that would fall legitimately under federal Constitutional law. In fact, the film's distribution is international in scope and therefore, the implications of its potential for evil is all the more greater. For it could misinterpret unjustifiably and falsely, the person of Jesus to many nations which are not "Christian" nations, but heathen. Therefore, the film, a fabrication of falsehood, if unfettered, may easily pass as Hollywood's interpretation of Christ, even a presentation of the U.S. For Hollywood is synonymous with the U.S. to Third World nations. The gullible third world, quite unexposed to the gospel, may believe that such was the character of

Christ, the God of the Christians - a liar, a sinner, a coward and an adulterer, "who paid for his own sins" on the cross

Plaintiff submits below that none of the Texas statutes on libel cited by the Defendants are relevant or applicable to the Plaintiff's case on "LTC "

(i) Renfro Co vs Lawson (160 SW 2d 246)

(ii) Goldstein vs KDFW (541 SW 2d 862)

(iii) Gonzales vs Times Herald Printing Co (513 SW 2d 124)

(iv) Keys vs Interstate Circuit, Inc (468 SW 2d 485)

All the above mentioned citations refer to defamation of the dead, the Defendants meaning thereby that Jesus is dead, and therefore, the Plaintiff is not entitled to any remedy or recovery. This is Defendant's "opinion", like the fallacious film itself and not a fact Plaintiff asserts and affirms that Jesus Christ is not dead, but is alive. His

resurrection is neither a myth nor an "opinion", but a matter of fact and the Plaintiff can provide substantive authorities and proofs that he is alive. The Spirit of Truth, which is Christ, is alive and active in this Universe, and especially on this Planet of his incarnation as Jesus of Nazareth. The resurrection issue again is a triable issue of fact, and the following citations from authoritative sources will prove the fact of Resurrection of Jesus.

The fact that Jesus is alive and not dead is substantiated by the following biblical and historical references as to eyewitnesses to his resurrection:

FROM THE BIBLE, NEW TESTAMENT:

"And the angel of the Lord answered and said unto the woman, FEAR NOT YE: FOR I KNOW THAT YE SEEK JESUS WHICH WAS CRUCIFIED. HE IS NOT HERE: FOR HE IS RISEN, AS HE SAID. COME, SEE THE PLACE WHERE THE LORD LAY. AND GO QUICKLY, AND

TELL HIS DISCIPLES THAT HE IS RISEN FROM THE DEAD; AND, BEHOLD, HE GOETH BEFORE YOU INTO GALILEE; THERE SHALL YE SEE HIM: LO, I HAVE TOLD YOU they departed quickly from the sepulchre with fear and great joy; and did run to bring his disciples word And as they went to tell his disciples, behold, Jesus met them, saying, ALL HAIL And they came and held him by the feet, and worshipped him Then said Jesus unto them, BE NOT AFRAID: GO TELL MY BRETHREN THAT THEY GO INTO GALILEE, AND THERE SHALL THEY SEE ME Then the eleven disciples went away into Galilee, into a mountain where Jesus had appointed them And when they saw him, they worshipped him: but some doubted And Jesus came and spake unto them, saying, ALL POWER IS GIVEN UNTO ME IN HEAVEN AND IN EARTH GO YE THEREFORE, AND TEACH ALL NATIONS, BAPTIZING THEM IN THE NAME OF THE

FATHER, AND OF THE SON AND OF THE HOLY GHOST: TEACHING THEM TO OBSERVE ALL THINGS WHATSOEVER I HAVE COMMANDED YOU: AND, LO, I AM WITH YOU ALWAYS, EVEN UNTO THE END OF THE WORLD. Amen." (St. Matthew's Gospel, ch 28: 5-10, 16-20).

"Then the same day at evening, being the first day of the week, when the doors were shut where the disciples were assembled for fear of the Jews, came Jesus and stood in the midst, and saith unto them, PEACE BE UNTO YOU. And when he had so said, he shewed unto them his hands and his side. Then were the disciples glad, when they saw the Lord. Then said Jesus to them again, PEACE BE UNTO YOU: AS MY FATHER HATH SENT ME, EVEN SO SEND I YOU." (St. John's Gospel, chapter 20:19-21.)

ON RESURRECTION: FROM "THE URANTIA BOOK." (Urantia Foundation, Chicago, 1955).

"Shortly after nine o'clock that evening, after the departure of Cleopas

and Jacob, while the Alphaeus twins comforted Peter, and while Nathaniel remonstrated with Andrew, and as the ten apostles were there assembled in the upper chamber with all the doors bolted for fear of arrest, the Master, in morontia form, suddenly appeared in the midst of them, saying: "Peace be upon you Why are you so frightened when I appear, as though you had seen a spirit? Did I not tell you about these things when I was present with you in the flesh? Did I not say to you that the chief priests and rulers would deliver me up to be killed, that one of your own number would betray me, and that on the third day I would rise? Wherefore all your doubtings and all this discussion about the reports of the women, Cleopas and Jacob, and even Peter? How long will you doubt my words and refuse to believe my promises? And now that you actually see me, will you believe? Even now one

of you is absent. When you are gathered together once more, and after all of you know for a certainty that the Son of Man has risen from the grave, go hence into Galilee. Have faith in God; have faith in one another; and so shall you enter into the new service of the kingdom of heaven. I will tarry in Jerusalem with you until you are ready to go into Galilee. My peace I leave with you."

As to Defendants' citation, NEWSPAPERS INC. vs. MATTHEWS (339 SW 2d 890), this case is not applicable to Plaintiff, because Plaintiff's allegation in his complaint is that he and other believers like him have been injured, their right to freedom of worship has been interfered with by the Defendants' attempted demolition of the unblemished character of their core of worship - Jesus Christ. Besides, under federal law, Plaintiff will have standing to represent himself and the third party, if the third

party is closely related, which is the case between the Plaintiff and Jesus Christ, his friend and Spiritual Father.

Finally, the Defendants' contention that their film "LTC" is a matter of "opinion" and may not be subject to a defamation suit, and have cited the cases of A H. Belo vs. Raysor (644 SW 2d 71) and Gertz vs. Welch, Inc. (418 US 323), Plaintiff submits that the citations are not relevant or applicable to Plaintiff's case which disputes Defendants' claim to "opinion" as misrepresentation of "facts", and therefore, is a triable issue.

Plaintiff submits that the Defendants' petition to dismiss does not stand even on Texas libel law, and the need to try the issues of "facts" will therefore be all the more necessary in the light of the foregoing discussion and justification. For these reasons, the Defendants' petition should be dismissed

Plaintiff submits and substantiates below the constitutional rights and law in support of his complaint, his standing and the relief he is entitled to, to mitigate the offenses and damages caused by the Defendants, by interfering with Plaintiff's freedom of worship and the rights of the Third Party he represents in order to prove PRIMA FACIE before the trial that his complaint may not be summarily dismissed by this court, on Defendants' motion.

IV

Plaintiff's complaint holds Defendants liable for false defamation with malice in the film, "LTC", which has two aspects of offences,

(a) It injures the Plaintiff and many believers like him, and interferes with the freedom of worship which the Constitution guarantees,

(b). It insults and slanders the CREATOR of the Universe, who was the

incarnated Jesus Christ and who is the Spiritual Father of the Plaintiff and other believers in this nation and other nations of the world

The following citations on Constitutional law, on defamatory falsehood and libel, is in support of Plaintiff's claim against the Defendants, and would restrict the Defendants' misunderstood position, that they have unfettered freedom to exhibit the film, "LTC", which is the prime cause of action in Plaintiff's complaint

(a) CHAPLINSKY vs NEW HAMPSHIRE (315 US 571-572): " It is well understood that the right of free speech is not absolute at all times and under all circumstances There are certain well defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any constitutional problem These include the lewd and obscene, the

profane, the libelous and the insulting or fighting words - those which by their very utterance inflict injury or tend to incite an immediate breach of the peace It has been well observed that such utterances are no essential part of any exposition of ideas and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."

(b) (as quoted from Cantwell vs Connecticut 310 US 296, 309-310)

"The most stringent protection of free speech would not protect a man in falsely shouting fire in a theater and causing fire." (249 US at 52 as quoted from Campers Vs Bucks Stove and Range Co 221 US 418,420)

(c) " Crime is none the less so, nor less odious, because sanctioned by what any particular sect may designate as religion It was never intended that

the first Article of Amendment to the Constitution that "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof," should be a protection against legislation for the punishment of acts inimical to the peace, good order and morals of society " (Davis vs Beason 133 US 323)

(d) " The guaranti of freedom of expression in effect in 10 of the 14 states which by 1792 had ratified the Constitution, gave no absolute protection for every utterance Thirteen of the 14 States provided for the prosecution of libel, and all of those States made either blasphemy or profanity, or both, statutory crimes As early as 1712, Massachusetts made it criminal to publish "any filthy, obscene, or profane song, pamphlet, libel or mock sermon" in imitation or mimicking of religious services Acts

and Laws of the Province of Mass. Bay, c CV Sec 8 (1712), Mass. Bay Colony Charters & Laws 399 (1814). Thus, profanity and obscenity were related offences." (Roth vs. United States 354 US at 482-483)

(e) "Libelous utterances are not within the area of constitutionally protected speech." (Beanharris vs Illinois (343 US 250, 266)

(f) "Spreading false information in and of itself carries no First Amendment protection." (Herbert Vs Landau (99 S Ct 1635)

(g) "Corporations as a class may not be held to be "public figures" for First Amendment purposes. (Bruno and Stillman Inc. vs Globe Newspaper Co. 633 F 2d 583).

(g) "Knowingly false statement and false statement made with reckless disregard of the truth do not enjoy constitutional protection (Apple Tree

vs City of Hartford 555 F Supp 224).

(h) False and misleading representations are not shielded by the First Amendment (Better Business Bureau of Metropolitan Inc vs Medical Directors, Inc 509 F Supp 811, injunction modified, affirmed 681 F 2d 397)

(i) "Should Plaintiff in defamation action be deemed private figure, strictures of First Amendment are not as rigidly imposed and his burden is therefore substantially lessened in so far as he need only establish that Defendant was negligent in failing to ascertain whether or not published statements were false and defamatory (Ali vs Daily News Publishing Co , Inc , 540 F Supp 142)

(j) "Truth has become an absolute defense in almost all cases and privileges designed to foster free communication are almost universally

recognized But the basic theory of libel has not changed and words defamatory of another are still placed in the same class with the use of explosives or the keeping of dangerous animals (Prosser, the Law of Torts: 108 at 792) Thus some antithesis between freedom of speech and press and libel action persists, for libel remains premised on the freedom of the Publisher to express certain sentiments at least without guaranteeing legal proof of their substantial accuracy " (Curtis Publishing Co vs Butts 388 US at 151-152)

V.

Plaintiff cites below constitutional cases in his favor as to standing, to represent his case on his behalf, and on the behalf of the third party - Jesus Christ

"Dismissal on the pleadings for lack of standing is inappropriate, even

if the extreme generality of a complaint leaves the injury in fact component of standing in doubt, where the standing requirement may be satisfied on affording an opportunity to make more definite, the allegations of the complaint Action "(Alliance of Senior Citizens of Greater Philadelphia vs Margaret Heckler (789 F 2d 931).

" For person who himself can allege injury in fact to be permitted to assert constitutional rights of another, thereby seeking redress of both his own injury and that of the third party, there must be a close relationship between litigant and person whose right he is asserting and activity litigant proposes to pursue must be inextricably bound up with constitutional right of person from whom the right is drawn and also there must exist some obstacle to third party in asserting his or her own rights

(U S C A Const Art 3:2, cl. 1; Bowman vs. Wilson 672 F. 2d 1145).

Plaintiff submits that he, like many other believers, is closely related to Jesus Christ, his Creator Father and Spiritual Father, not only in a temporal sense but in an eternal sense, and therefore, the right of the Plaintiff is inextricably "bound up" with Christ, the third party which the Plaintiff represents

VI

Plaintiff submits the following citations in support of the injunction he has prayed for in his complaint to mitigate the damage that the false and defamatory film would cause in the future

(a) "The purpose of an injunction is to prevent future illegal and wrongful acts and respondent's past conduct is a relevant factor to be considered." (Offner vs. Shell's City, Inc. 376 F 2d 574)

(b) "Purpose of an injunction is to prevent future violations, and court, in determining whether to grant injunctive relief, must look to the future as well as to the past and insure that wrongs are not repeated and there is fealty to the law (U S vs Richberg 398 F. 2d 523)

(c) "Injunction" is prohibitive writ issued by court of equity forbidding party-defendant from certain action, or in case of mandatory injunction, commanding positive action (United Bonding Ins Co vs. Stein 410 F 2d 483)

(d) "Injunction will be granted where court of equity determines that injunction is essential to restrain act contrary to equity and good conscience. Washington Capitols Basketball Club, Inc vs Barry 304 F Supp 1193, affirmed 419 F 2d 472)

(e) "Sole function of

injunctive relief , whether temporary or permanent, is to forestall future violations (United Parcel Service, Inc. vs. Local 25 of Intern Broth of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Local 25), 421 F Supp 452)

(f) "An injunction is an equitable remedy." (Firemen's Fund Ins Co vs Myers 290 F Supp 405)

(g) "Court has inherent power to issue mandatory injunction where appropriate " (International Tel & Tel Corp vs General Tel & Electronics Corp , 351 F Supp 1153, affirmed in part, reversed in part, 518 F 2d 913)

VII

The authority of this court to hear Plaintiff's case has been substantiated in parts IV, V and VI Plaintiff will now submit to the court as to why Defendants' motion should not be granted which will amount to summary dismissal Plaintiff

cites the following cases in support of his plea that this court should not dismiss his complaint in view of the circumstances explained in this petition, and on the strength of Plaintiff's original complaint.

(a) "On the basis of the record before us, and in view of the weight to be accorded the complaint on a motion for summary judgement, we are not prepared to say that Defendant's version must be believed, nor that the allegations of the Plaintiffs, which the court below deemed "roughly drawn", are so vague and general as to strip them of all credibility The resolving of such issues must be left to the finders of fact, and not decided upon a motion for summary judgement " (Sarnoff et al vs Claglia 165 F 2d 167)

(b) "It is our opinion that Rule 56 should be invoked only when the complete absence of a genuine issue of

fact is apparent upon the face of the record Resort to the remedy where there is any doubt is futile, because it is now well settled that all doubts on this preliminary issue must be resolved against the moving party The rule can be made to fulfill its purpose if it is invoked only in appropriate cases, and these are not too numerous The motion for summary judgement is denied (Zig zag Spring Co vs Comfort Spring Corporation 89 F Supp 410)

(c) "A litigant has a right to a trial where there is the slightest doubt as to the facts, and a denial of that right is reviewable; but refusal to grant a summary judgement is not reviewable Such a judgement, wisely used, is a praiseworthy time-saving device But, although prompt despatch of judicial business is a virtue, it is neither the sole nor the primary purpose for which courts have been established,

Denial of a trial on disputed facts is worse than delay (Cf Arenas vs United States 322 US 419, 429, 433, 64 S Ct, 1090, 88 L Ed 1363) The district courts would do well to note that time has often been lost by reversals of summary judgements improperly entered. The motion for summary judgement is denied " (Rolle Mfg Co vs Marco Chemicals 92 F Supp 218)

(d) "Federal rule providing for summary judgement gives district court no jurisdiction to summarily try the factual issues in advance of a trial. (Fed Rules Civ Proc , rule 56, 28 U S C A (Silvray Lighting vs Versen 10 F R D 507)

(e) "Federal summary judgement rule does not vest in court the jurisdiction summarily to try the factual issues on pleadings and affidavits of parties but vests in court limited authority to enter summary

judgement if it clearly appears from any record that there is no genuine issue as to any material fact and that moving party is entitled to judgement as a matter of law, and complete absence of any genuine issue of fact must be apparent and all doubts thereon resolved against moving party. (Fed Rules Civ Proc , rule 56, 28 U S C A (Newark Evening News Pub Co vs King Features Syndicate 7 F R D 645)

(f) "Where factual questions are at issue, as well as legal principles, the court is precluded from entering summary judgement (Fed Rules Civ Proc , rule 56, 28 U S C A (Norton vs Supreme Fuel Sales Co., 72 F Supp 287)

(g) "A motion for summary judgement must be denied where a genuine and substantial issue of fact is presented by the pleadings. (Schenley Distributors vs. Wisconsin Wine and

Spirit Import Corp 28 F Supp 635)

(h) "Where complaint averred libel per se, actual punitive damages could be recovered without pleading special damages" (Gertz vs Welch, 306 F Supp 310: Motion for summary judgement denied)

AFFIDAVIT:

The Plaintiff's Affidavit affirming certain basic facts of the case is enclosed

CONCLUSION:

In view of the foregoing facts, citations, justification and Affidavit, Plaintiff has indeed stated his claim, and the Defendants motion to dismiss Plaintiff's complaint before a trial should be dismissed

Respectfully submitted:

(VEDA NAYAK)

Plaintiff Pro Se

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION

CIVIL ACTION NO: H-89-2695

VEDA NAYAK vs MCA, INC. et al.

State of Texas

County of Harris

Veda Nayak, Plaintiff in the above mentioned case, duly sworn, deposes and says to the best of his knowledge and belief that:

(1) The selected statements of public protest and agitation to the film, "THE LAST TEMPTATION OF CHRIST", herein after "LTC", and other press information contained in EXHIBIT I to the original complaint filed with the Federal District Court, Southern District of Texas, Houston Division in the above mentioned case, are true extracts and copies from selected

papers and magazines as identified in that exhibit. Plaintiff affirms that prima-facie, the objections to the film as contained in the press reports are representative of the wide spread objections to the film among universal believers of Christ as defamatory falsehood on the life and character of Jesus Christ. MCA, Inc. and Cineplex Odeon (USA), hereinafter "Principal Defendants," also received such protests from interested leaders and members of the church, but the Principal Defendants took out an advertisement in leading newspapers before the release of the film on August 12, 1990, asserting their rights to release the film inspite of these protests and objections. Plaintiff further affirms that Defendants knew that their film was a defamatory falsehood of the life and times of Jesus Christ, but yet they decided to release the film with reckless disregard to the truth.

(2) Plaintiff further affirms that the Defendants' action was motivated by profiteering and malice - to profit from a false story that would cause excitement and controversy, which could bring a windfall of publicity to the film, "LTC". Malice because, a majority of the chief executives who control the Principal Defendants' corporations did not subscribe to the Christian belief and did not respect the religious sentiments and rights of the believers in Jesus Christ, which was evident from the fact that the Principal Defendants decided to release the film, "LTC" inspite of knowing Christian public protest, and inspite of knowing that their film was considered an insult and slander to the person of Jesus Christ, contrary to biblical and historical records and traditions of the church

(3) Plaintiff further affirms and states that the biblical references to

define the divine and human character of Jesus Christ as given in Exhibit II, III, IV, V and VI are true reflections of the immaculate and blameless perfect character of Jesus Christ, testified by some eyewitnesses on the life and mission of Jesus Christ. Exhibit VII, which gives the contents of the "Urantia Book", written by living witnesses to the life and times of Jesus Christ is another true source besides the gospels of the bible, to vouch for the immaculate and perfect life of Jesus Christ. Paper 120 of the Urantia Book, included in Exhibit VII proves that Jesus was the incarnated Creator, Christ Michael of this universe. The Urantia Book also proves that Jesus rose from the dead after his crucifixion, and is now ruling this universe as its Creator and God. Plaintiff affirms that it is this Creator the founders of this nation recognized, and it is the incarnated character of this Creator - Jesus of Nazareth that the

Defendants have falsely defamed in their film, "LTC", contrary to historical and biblical facts, as detailed in the Plaintiff's original complaint.

(4) Plaintiff further affirms that Plaintiff's letter to Lew Wasserman, Chairman, MCA, Inc. dated March 30, 1989, together with enclosures, is a true copy of the letter and documents sent by certified mail, which was received by Lew Wasserman's office on 4/5/89 (Receipt no. P114039479). The said letter was kept in Wasserman's office till 4/10/89, and was returned opened to Plaintiff on 4/13/89 with another claim check # 080670 with the remarks on the envelope "Refused". Plaintiff therefore believes that Lew Wasserman or his office knew the contents of Plaintiff's letter dated March 30, 1989, which included Paper 120 of the "Urantia Book", and this Paper, having been written by an eyewitness of the life and times of Jesus Christ, included a tru

statement to the effect that Jesus was the incarnated Creator, Christ Michael of this Universe Therefore, the Defendants knew that they were defaming falsely, the incarnated Creator Jesus of Nazareth, but they continued to defame and profane his name as a coward, a liar, a sinner, an adulterer, a Jew killer and demon possessed, through their film, "LTC" in this country and other countries of the world

(5) Plaintiff affirms that Jesus Christ is his spiritual Father, his Creator and God, and to many thousands of other believers The Defendants, by demolishing the IMMACULATE image of Christ in their film, "LTC" have seriously interfered with the freedom of worship of the Plaintiff and thousands of other believers like him Plaintiff also affirms that he represents Jesus, the incarnated Creator of the Universe, as a third party, in order to find justice through the

courts from the defamatory falsehood of the Defendants of his life in their film. In doing so, Plaintiff will also be representing many other believers like him to whom Jesus is God and Creator.

(6) Plaintiff affirms that if the Defendants' film continues to be exhibited through various media formats, it will further defame falsely, Jesus Christ, and his character may be seriously misunderstood in third world, non-Christian countries, and even in this nation, to young children. Plaintiff affirms that the ends of justice will be met only through a permanent injunction to restrain the film in all media in all the territories of the world.

(7) Plaintiff will amend his original petition to include general and punitive damages as he has pointed out in his original complaint and streamline his

complaint as to issues and remedies sought

VEDA NAYAK (sd)

(VEDA NAYAK)

Affiant

Subscribed and sworn to before me this 19th day of December 1989

SUSAN S DI FILIPPO (sd)

Notary Public, State of Texas

My commission expires Feb 13, 19 91

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

VEDA NAYAK,	)	
	)	
Plaintiff,	)	
	)	
	)	CIVIL ACTION NO.
v.	)	
	)	H-89-2695
	)	
MCA, INC., et al.,	)	
	)	
Defendants.	)	

ORDER OF DISMISSAL

For the reasons set forth in Defendants' Motion to Dismiss for Failure to State a Claim, the complaint in this case is hereby DISMISSED.

Signed this 17th day of January, 1990.

KENNETH HOYT (sd)

UNITED STATES DISTRICT JUDGE

(TRUE COPY)

==========

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Docket No: 90-2188.

VEDA NAYAK,

Plaintiff-Appellant.

-against-

MCA, INC. et al,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

==========

APPELLANT'S BRIEF

==========

VEDA NAYAK

4770, W. Bellfort,# 285

Houston, TX 77035.

(713)684-6552.

VEDA NAYAK
Plaintiff-Appellant Pro Se.

TABLE OF AUTHORITIES

Page

(1) Gaines v. Canada,
305 U.S. 350 16

(2) Yick Wo v. Hopkins,
118 U.S. 356, 369 16

(3) Kovacs v. Cooper,
336 U.S. 77,88,
69 S.Ct. 448, 454 (1949) 16

(4) Schneck v. U.S.,
249 U.S. 47,52 S.Ct. 247, 249 ... 16

(5) Herbert v. Lando,
441 U.S. at 153 16

(6) Winters v. New York,
333 U.S. 507, 515 18

(7) Lynch v. Donnelly,
465 U.S. 668, 674,
104 S.Ct., 1355, 1356 18

(8) Zorach v. Clauson,
343 U.S. 306, 312-315 19

(9) Lynch v. Donnelly,
465 U.S. 668, 674-678,
104 S.Ct., 1355, 1359 21

(10) United States v. Ballard,
332 U.S. 78,86-87 25

(11) Davis v. Beason,
133 U.S. 333, 342 25

(12) Herbert v. Lando,
441 U.S. at 153 (1979) 26

(13) Curtis Publishing Co. v. Butts,
338 U.S. at 130 (1967) 26

(14) Joseph Burstyn, Inc. v. Wilson,
343 U.S. 495, 505 (1952) 26

(15) Cantwell v. Connecticut,
310 U.S. at 296 26

(16) Presbyterial Church v. Blue Hull,
393 U.S. 440, 450 26

(17) Crowder v. Southern Baptist
Convention, 828 F.2d. 718, 721..26,27

(18) Paul v. Watch Tower Bible and Tract
Society of New York, Inc.
819 F.2d., 875 27

(19) New York Times Co. v. Sullivan,
376 US 254 27

(20) New York Times Co. v. Sullivan,
376 U.S. 254, 302 27

(21) U.S. v. Judith Kuch,
288 F.Supp., 439, 449(1968) 28

(22) Renfro v. Lawson,
160 S.W.2d., 246 28

(23) Goldstein v. KDFW,
451 S.W.2d., 862 28

(24) Gonzales v. Times Herald
Printing Co.,
513 S.W.2d., 124 28

(25) Keys v. Interstate Circuit, Inc.,
468 S.W.2d., 485 28

(26) Senior Citizens of Greater
Philadelphia v. Margaret Heckler,
789 F.2d. at 931 29

(27) Bowman v. Wilson,
672 F.2d., 1145.....29

(28) Sierra Club v. Morton,
405 U.S. 727,
92 S.Ct., 1361 (1972).....29

(29) U.S v Students Challenging
Regulatory Agency Procedures,
412 U.S. 669, 93
S.Ct., 2405 (1973).....29

(30) Burrows v. Jackson,
346 U.S. 249 (1963).....29

(31) Belo Corp. v. Raysor,
664 S.W.2d., 71,79.....29

(32). Williford v. People of CA,
352 F.2d. 475, 476.....30

(33) Saranoff et al v. Claglia,
165 F.2d. at 167.....30

(34) Rolls Mfg. Co. v. Marco Chemicals,
92 F.Supp., 218, 220.....30,31

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

VEDA NAYAK, Plaintiff-Appellant,

-against-

MCA, INC et al . Defendant-Appellee,

On Appeal From A Judgment of The District Court For The Southern District Court of Texas

---

APPELLANT'S BRIEF

STATEMENT OF JURISDICTION

Under 28 U S C , Section 1291, Plaintiff-Appellant (hereinafter PLAINTIFF) appeals from a summary judgment of dismissal for failure to state a claim, entered on 1/23/90 by the District Court for the Southern District of Texas, granting Defendants-Appellees' (hereinafter DEFENDANTS) motion to dismiss

Plaintiff's complaint for breach of Plaintiff's constitutional rights to freedom of religion and worship, which have been infringed and interfered with by the Defendants, through their film, "THE LAST TEMPTATION OF CHRIST", which profaned and slandered Plaintiff's God and God of this Universe by defamatory falsehood. The Plaintiff sought a remedy through an injunction to enjoin the Defendants not to distribute and exhibit the film that continues to injure the Plaintiff and millions of others in this nation and internationally and interferes with their freedom of religion and worship.

STATEMENT OF ISSUES PRESENTED

Defendants MCA and Cineplex Odeon Corporation (hereinafter Principal Defendants), are producers and distributors in the motion picture and television industry, and are public corporations incorporated under California State Laws. Plaintiff is an individual

with certain basic constitutional rights to freedom of religion and worship Defendants produced and distributed a film entitled "THE LAST TEMPTATION OF CHRIST" which profaned and defamed the God of the Plaintiff and many others in this nation and other nations of the world Defendants assert their rights to produce and distribute the defamatory falsehood regardless of Plaintiff's rights The basic questions are as follows:

(a) Can the Defendants in the exercise of their constitutional freedom under the First Amendment infringe and interfere in an absolute way with the religious freedom of the Plaintiff and many others by their film "THE LAST TEMPTATION OF CHRIST" which profanes and slanders by defamatory falsehood, Plaintiff's God, God of this Universe and God of many people in this Republic and abroad, and not be liable under U S laws?

(b) Has the District Court erred in holding Defendants' plea that it "would violate the Constitution for any court to try this case?"

STATEMENT OF THE CASE

The film, "THE LAST TEMPTATION OF CHRIST", (hereinafter LTC), the cause of this suit, produced by Defendant, MCA, INC in collaboration with Defendant Cineplex Odeon and released in this country and abroad from August 1988, is by and large in the present day genre of Hollywood's film products, with an accent to violence and immorality.

Dramatized films have been made on the life of Jesus in the past, but these films were not objectionable, since they did not conflict with the basic facts, character and mission of Christ. Exceptionally, they were a source of inspiration and entertainment to both Christians and non Christians alike around

the world (e.g., BENHUR, THE ROBE and Zefferelli's JESUS OF NAZARETH)

For quite some time, the Jewish movie producers-distributors of Hollywood (hereinafter "JMP") have been attempting to create a different Jesus for the world - a fictitious Jesus rather than of history, a Jesus of the flesh rather than of the spirit, apparently to satisfy their own theological egos and to neutralize the evangelical movement in this nation and elsewhere in the world

Around 1972, Sidney Lumet (JMP), a Hollywood film director, obtained the rights of the fictitious Jesus story from the widow of Nikos Kazantzakis, an excommunicated Greek Roman Catholic writer, for his dubious work on Jesus Christ. Unsuccessful as he was in making the movie then, he gave the book to Barbra Hershey who wanted to play the part of Mary Magdalene

Hershey, who was a leading lady in the film, "BOXCAR BERTHA", gave the book to its director Martin Scorcese (an ex-Roman Catholic seminary drop out). Scorcese wanted to make the film, knowing its support among JMP, and the proposal made rounds in Hollywood studios among JMP, which were initially reluctant to make the film based on the fictitious book that departed widely from the story of the historical Jesus Christ. In 1983, Paramount Pictures finalized plans to make the movie in Israel, but dropped the project when Israel refused to give permission to Paramount to shoot the film there, as it would offend Christians around the world and Christian tourists who visit the land of Christ's nativity.

Two years later, Defendant MCA, Inc (JMP) in partnership with Defendant Cineplex Odeon (JMP), came forward to produce the film. Prominent actors with Christian background were approached to

play the lead role of Jesus of Nazareth - a character that according to the script, confessed that he was a coward, a liar and a sinner, who had serious mental and emotional problems, who was branded a traitor for making "crosses" to crucify his own Jewish brethren, who was a hypocrite that could never admit openly that he was in love with Mary Magdalene, who could only watch helplessly, Magdalene making love to other men in her prostitute parlor, who was reluctant to do his divine calling, who finally freaked out from the cross in a dream to betray his weaknesses when he does make love to Mary Magdalene. Then he marries Magdalene and after her death, remarries Martha, one of the Lazarus sisters, commits adultery with Mary, the sister of Martha, and has children with both of them and lives with them for many years, when suddenly he returns to the cross from his dream world

and dies on the cross saying, "It's finished."(Record Excerpts, Pgs 19-27)

Robert DeNiro, a Roman Catholic, who made movies before with Director Scorcese (TAXI DRIVER, RAGING BULL) was offered the fictitious role of Jesus and he declined. In 1987, Defendant MCA chose Morocco as a location for the film, cast Willem Dafoe to play Jesus with Barbra Hershey, Harvey Keital and David Bowie, with Scorcese directing the film. The production team and cast consisted predominantly of JMP.

In order to forestall any problem from Christian objectors to the film, Defendant MCA covertly named the film as "THE PASSION" during foreign location shooting.

In early 1988, Defendant MCA hired Tim Pinland, an evangelical Christian and Public Relations Specialist, to promote the film among the Christian public, but he resigned in mid 1988 after knowing the content of the film and knowing the wide

spread objections from several Christian leaders across the country who have by this time, read the profaning and defamatory script of the film.

Unable to pacify Christian leaders and scared of possible injunctions, the Principal Defendants moved the date of release of the film from September 1988 to August 1988, which further infuriated the Christian leaders. When the film was released on August 12, 1988, there were wide spread objections to the profanity and defamatory falsehood of the film from the Christian public (Record Excerpts Pages 2-11, See Appendix: Pages 6-30.)

The film assassinated the character of Jesus and branded him by his own confession, a liar, a coward and a sinner, and assailed him as a traitor and adulterer. The film unleashed a phenomenal controversy and the pro JMP publicity and promotion in network television could not drown the naked offence of profanity and

slander of the film in a land where the majority were traditional or born again Christians.

Defendant MCA, Inc. and Defendant Cineplex Odeon took in defence of the defamatory film they produced, a full page AD in leading newspapers that they had a right to make and show the film under the First Amendment and their right was not for sale. This was a hurried response to a suggestion from William Bright of the Campus Crusade for Christ, that the Defendants abandon the offending film and destroy all its copies for a compensation of $10 million that Campus Crusade will raise.

Plaintiff, a Christian, saw the film LTC, and was offended and injured by the film, as it was an outrageous profanity and slander of God, the Christ, a capital lie and a woeful obscenity (as it showed Jesus making passionate and naked love to Mary Magdalene). The film attempted to

demolish the immaculate image of Christ in the Plaintiff's mind, and seriously interfered with his freedom of worship and religion. Such a film the Plaintiff felt, would degrade the person of Christ in the eyes of the children and confuse them whether their SAVIOR was a SINNER himself? The Principal Defendants had planned to release the film in other media such as video, cable and television which would give access to children to see the film. The Defendants were also releasing the film abroad and it's impact was devastating, especially in the third world countries where people saw Jesus portrayed as a SINNER by his own confession and made them wonder whether the God of Americans and the western world was a sinner?

On March 30, 1989, Plaintiff wrote a letter to Lew Wasserman (JMP), Chairman of Defendant MCA and pleaded with him to stop exhibiting the defamatory falsehood on

Christ. For his benefit and enlightenment, the Plaintiff included proof that the Defendants were profaning in truth, Christ, the CREATOR of the Universe. The proof was not just from the biblical sources which the JMP would reject as heresy, but from authentic historical records from the Urantia Book (1). (Record Excerpts Pg 45-62, Appendix, Pges 272-288)

Wasserman's office received the Certified letter on 4/05/89* retained it for a number of days and returned it through the postal service as "refused"** on 4/10/89. The letter was received opened

---

(1) Urantia Book, published by the Urantia Foundation, Chicago. Part IV of the book is written by supernatural beings who were resident on Planet Earth during the incarnation of Christ Michael, the Creator of the Universe, as Jesus of Nazareth

*: Record Excerpts,Pg 64 in original submission.

**: Record Excerpts,Pg 65 in original submission.

and since it was received in Wasserman's office earlier, it was obvious that Wasserman and/or his office knew the contents of the letter, but evaded notice that they were profaning and defaming the GOD of the Universe, and were infringing and interfering with the religious freedom and worship of the Plaintiff and millions of people who believed in the same God.

Plaintiff came to know through friends and media sources that the Principal Defendants were receiving many thousands of letters from the outraged Christian public, objecting to the profaning film, but the Defendants did not detract from their adamant stand to defame their God and God of this Universe, inspite of the knowledge that the film was profaning God and was based on a defamatory falsehood, and was offensive to many people. The Defendants continued to maliciously infringe the rights of religious freedom and worship of millions

of believers in God, including the Plaintiff.

Plaintiff filed his suit on August 10, 1989, to enjoin the Defendants through a permanent injunction from exhibiting the film in all media, and petitioned in the original complaint that he will amend the complaint to include damages. Plaintiff alleged in his complaint (Record Exc.28-37 Appendix Pg,34-77) that the Defendants, by distribution and exhibition of the film LTC which was a defamatory falsehood of Christ, were infringing the Plaintiff's and other believers' constitutional right to freedom of worship and religion. Plaintiff detailed selected profanity and defamatory falsehood of Christ in the film that offended the Plaintiff and many other believers (Rec Exc 19-28 Appendix, Pg 45-59) Plaintiff alleged injury as a result of such defamation of the core of worship of the Plaintiff and other believers.

Plaintiff's basic allegations stated inter alia (Rec Exc 19-21, See Appendix pg 64-75)

"Plaintiff alleges that the Defendants chose to defame the character of Jesus for the dual purpose of profiteering and malice: profiteering by massive propaganda and publicity to the controversial story, and malice through a new religious propaganda that Jesus was not a perfect man as the Bible portrays, but a weak imperfect man, not a savior of sinners but a sinner himself, not God incarnate but an imperfect man attempting to become God The key executives and producers of the Principal Defendants have been driven by a spirit of greed and malice to produce a film that ridiculed the impeccable image of Christ and thereby insult millions of true believers of Christ. The Plaintiff affirms that he is one of such believers of Christ so insulted and ridiculed. Plaintiff

affirms his right to defend the religious faith he belongs to, to affirm his religious freedom to worship a Supreme Being of his choice, who is Jesus Christ. Plaintiff alleges that the Principal Defendants have seriously interfered with the Plaintiff's and other believers' religious freedom, by assassinating the character of the Supreme Being he and others believe in. The Defendants have done this recklessly, for profiteering and for promoting their own religious vendetta. They have abused the privileges of the First Amendment, wrongfully seeking protection under it while infringing the right of others to freedom of religion and worship which the Constitution guarantees. Plaintiff alleges that the Defendants have no protection of free speech that was false and defamatory, such as the said film was. The Plaintiff also alleges that the Defendants' film

was in effect "spreading false information in and of itself", and therefore had no First Amendment protection. Plaintiff asserts that the Defendants have therefore no right or protection to produce and exhibit the said film, which is a fabricated tissue of falsehood, with the deliberate intent to defame and assassinate the character of Jesus Christ, a public and religious figure

Plaintiff alleged infringement and interference of religious freedom to the Plaintiff and other believers of Christ by the film, ITC, especially to young children who will be confused by the film, as the Defendants were planning to release the film through other film formats, namely video, cable and television Plaintiff alleged inter alia in this regard:

The Defendants, by degrading the public figure of Jesus Christ, have sought to

disturb the harmony, tranquility and peace of individuals, families and communities in this nation, which the Constitution seeks to secure The Defendants, by their callous disregard to the religious rights of the Plaintiff and such other people, have caused great injury to their religious self-respect, decorum and pride of worship, in this nation and other nations of the world The damage caused by the Defendants to the believers of the world is substantial, as the film ridicules their faith and insults the central core of their worship, which is difficult especially for the young children to understand and cope with To the young children exposed to the adverse propaganda of the film through the media, it would be confusing to know which Jesus is real It would be difficult for them to discriminate whether Jesus was a sinner or not? Did

God have sex with his own children? Was he a coward, a liar and a traitor? Was he demon possessed?

Plaintiff alleged that Defendants' defamatory falsehood was negative religious propaganda to hurt and injure others, and that the Defendants had no constitutional privilege to exercise their rights and privilege at the expense of others' rights. Plaintiff stated inter alia:

> The Plaintiff alleges that the Principal Defendants and their key officers have wilfully sought to defame Jesus Christ, because they by and large do not share in the religious sentiments and beliefs of those demoralized by their film. The Plaintiff alleges further that the Principal Defendants would never have produced a film of this kind for worldwide distribution, if it would wound in any way, the religious sentiments of their own faith and

community. They have thus sought to ride roughshod over the beliefs and sentiments of others because of their perverted religious zeal, to insult one of the world's largest faiths.

The Plaintiff alleges that the Defendants in taking the First Amendment to their protection and advantage, have not considered the rights of the Plaintiff and others, which the Constitution guarantees by way of religious freedom. The Plaintiff submits that the First Amendment "will not enforce freedom of speech in disregard to the rights of others.", and therefore, the Defendants have no right to exhibit the defamatory film, as it infringes the freedom of religion and worship of the Plaintiff and other believers.

Plaintiff alleged insult and injury to himself and other believers of Christ,

including children, by the defamatory film, and stated inter alia:

> Plaintiff alleges that the Defendants have humiliated demoralized, agonized and mentally disturbed the Plaintiff and millions of believers of Jesus Christ in this nation and other countries of the world by portraying their God, Creator, and Savior falsely and deliberately in the said film as a sinner, liar and a moral wreck The Defendants by the above described defamation have attempted to demolish the immaculate image of Christ which millions of believers of Christ hold as personal and sacred, and thereby caused immeasurable harm to their mental, psychological and spiritual health The Plaintiff alleges that these damages will have far reaching consequences on his peace and welfare and that of many individuals and their families, especially young children, who may be demoralized by the said film

which depicts Christ, their Savior, - the focus of their Sunday school inspiration, as a sinful, lying, weak, incestuous and adulterous character.

Plaintiff alleged defamation of the Creator and God of the Republic, and stated inter alia:

Plaintiff alleges that the Defendants not only defamed Jesus Christ, but in truth have defamed the CREATOR OF THE UNIVERSE, as evidenced in Urantia Paper No:120 (EXHIBIT VII,Appendix Pg 272-288) This is the CREATOR the framers of the Constitution recognized. The Plaintiff alleges further that the Defendants have ridiculed the Constitution by defaming the GOD which this nation trusts and worships ("In God We Trust.") The Plaintiff alleges furthermore that the Defendants are willfully and falsely, and with full knowledge - inspite of due notice to Defendant MCA, Inc , given by the Plaintiff, continuing to defame the

GOD and CREATOR OF THIS UNIVERSE by exhibition of the said film.

In conclusion, Plaintiff sought relief by way of permanent injunction to restrain in all media, the Defendants from exhibition of the film, LTC, that was continuing to insult and injure the Plaintiff and other people by defamatory falsehood, and was defaming the Creator and GOD of the Republic

The Defendants moved on November 29, 1989 to dismiss Plaintiff's complaint for failure to state a claim, on the following points, included in Defendants' motion. (Rec. Exc. Pg 67-70, Appendix,Pgs 95-103).

(a) It would violate the Constitution for any court to try this case.

(b) Texas State law on tort bar this action

Plaintiff provided an exhaustive rebuttal to the Defendants' motion, that the Defendants were infringing and interfering with the Plaintiff's and other

believers' right to freedom of religion and worship, and were defaming Christ whom the Plaintiff represented as a third party as well as other believers of Christ who were also offended and injured by the defamatory film. Plaintiff cited authorities that the court may not dismiss Plaintiff's complaint before resolution of issues of fact and pointed out the misapplication of the Defendants' authorities on his two propositions named above. (Rec. Exc. 75-85, Appndx Pg 104-150)

Plaintiff had filed an Affidavit affirming the allegations of his complaint and declaring that he will amend his complaint to include general and punitive damages and streamline his complaint on issues and remedies sought.

OPINION BELOW

The District Court did not provide the opportunity to the Plaintiff for a hearing, and the case was dismissed summarily without an opinion, relying

entirely on the Defendants' above mentioned propositions that "it would violate the Constitution for any court to try this case" and "Texas State law on tort bar this action " (Record Excerpts, Page 1, See Appendix, Page 151)

SUMMARY OF ARGUMENT

The District Court below granted the Defendants' motion for dismissal and accepted their plea that the Plaintiff's case cannot be tried by any court on constitutional grounds Under constitutional law, the rights of the Defendants are not absolute and they cannot exercise their right by infringing Plaintiff's right to freedom of worship and religion Besides, Defendants' alleged constitutional rights of free speech and freedom of religion , etc have no protection under constitutional law when they have violated common law statutes of profanity and defamation with a resultant injury to Plaintiff and others The case

involves issues of fact which a jury has to try, and the District Court erred in summarily dismissing the case before a trial.

ARGUMENT

POINT I:

THE LOWER COURT ERRED IN HOLDING DEFENDANTS' PLEA THAT IT "WOULD VIOLATE THE CONSTITUTION FOR ANY COURT TO TRY THIS CASE."

The Defendants' basic contention in their motion to dismiss which the District Court granted summarily before a trial, is that it would "violate the Constitution for any court to try this case" which means that the Defendants' First Amendment rights are absolute, and that the Plaintiff and others injured have no recourse when their right to freedom of worship and religion is infringed and interfered with by the Defendants. This position is unfounded in law as it denies Plaintiff's constitutional rights and his

equal rights to justice Under First Amendment freedom of religion, while the freedom to believe is absolute, the freedom to act, in the nature of things cannot be absolute and remains subject to regulation for protection of society (U S C A Const Amend 1).

Defendants' assertion that the Plaintiff's case of insult and injury by Defendants' profanity and slander of Plaintiff's God by defamatory falsehood in their film, LTC is not a justiciable matter under the Constitution of the United States, raises the following issues of facts, misinterpretation and misapplication of law:

A.

Defendants have not questioned Plaintiff's allegations mentioned above, but have only questioned the constitutional validity for courts to adjudicate Plaintiff's case.

While the Defendants deny Plaintiff's constitutional equal rights to justice, it is ironical and unfair that the Principal Defendants (MCA Inc and Cineplex Odeon, USA) took a full page AD in leading newspapers sometime in 1988 prior to the release of the offending film that they had a right to release the film and that their First Amendment Rights were not for sale At the same time when they upheld and declared their rights, they were infringing the rights of others - the Plaintiff and many other believers of Christ, the Creator and God of this Universe (hereinafter GOD), interfering with their religious freedom and worship by profaning and slandering GOD with defamatory falsehood by releasing soon after, the offending film, LTC Defendant has no such right under the equal protection and equal rights provisions of the Constitution In Gaines v Canada 305 U S 350, the U S Supreme Court stated:

"The equal protection of the law is "a pledge of the protection of equal laws" Yick Wo v. Hopkins 118 U.S.356, 369.

Also in Kovacs V. Cooper 336 U.S. 77, 88, 69 S.Ct. 448, 454 (1949), the Supreme Court succinctly said: "To enforce freedom of speech in disregard of the rights of others would be harsh and arbitrary in itself." In same case Supra, quoting the famous words of Mr. Justice Holmes, Schneck v. United States, 249 U.S. 47, 52, 39 S. Ct. 247, 249, the Court said, "The most stringent protection of free speech would not protect a man in falsely shouting fire in a theater and causing panic..."

Also, in Herbert v. Lando 441 U.S. 153, it was held that spreading false information in and of itself carries no First Amendment protection. (Constitutional Law 90.1(5).

Therefore, the Defendants' film is a false and defamatory portrayal of GOD

offending and injuring many people, including the Plaintiff, and cannot have any First Amendment protection.

If the Defendants have in fact offended and injured the Plaintiff and others and if Defendants have profaned and slandered their GOD with defamatory falsehood, because of their prejudice and malice toward the GOD and faith of the Plaintiff and others, then certainly, it presents a claim which must be tried and adjudicated by the courts to maintain equal rights to all.

B.

If the people controlling the Principal Defendants' corporations were Christian believers, certainly, such a film profaning God and Christ would not have been produced.

The Principal Defendants, the principal executives of which are Jewish and apparently of Jewish faith, have callously and maliciously produced the

film LTC profaning Christ - the GOD of the Plaintiff and other believers like him in this nation and abroad, - with defamatory falsehood

The Defendants knew when they made the film that it was a false story on Christ, the GOD of millions of believers, but they still did it with a view to offend the believers of Christ because historically, they have denied Jesus as the Christ Therefore, they have depicted falsely, Christ as a SINNER by his own confession and have slandered him in their film LTC, as a traitor, a liar and an adulterer Therefore, the film LTC is set up by the Defendants as a glaring object of religious conflict, a spiteful device to incite religious tension among believing Christians everywhere, - to hurt them, to insult them and injure them

The basic goal of constitutional Government inter alia as enshrined in the Constitution is to "establish equal

justice, ensure domestic tranquility promote the general welfare, etc"

The Constitution is no respecter of one religious sect, and the fundamental rights of equality, expression and justice would require that various religious faiths and sects respect each others' faith and belief and co-exist harmoniously as a community.

Domestic peace and tranquility will be at stake if one sect slanders and profanes the religious core of worship, or sentiments or values of another sect in which case, the secular government must intervene to bring equity and justice between the offender and the offended which is common law and has been aptly sketched by the Supreme Court in Winters v. New York 333 U.S. 507, 515.

"Acts of gross and open indecency or obscenity, injurious to public morals, are indictable at common law as violative of the public policy that requires from the

offender retribution for acts that flaunt accepted standards of conduct " 1 Bishop, Criminal Law (9th ed.) 500; Wharton, Criminal Law (12th ed) 16.

The religious prejudice and profanity of the film LTC, which is the cause of this suit, is against the affirmative policy of our government as stated aptly in Lynch v Donnelly, 465 U S 668, 674, 104 S Ct. 1355, 1356:

"The Constitution does not require complete separation of Church and State, it affirmatively mandates accommodation, not merely tolerance of all religions, and forbids hostility toward any "

Therefore, the Defendants have transgressed this affirmative constitutional policy by producing the film, LTC, profaning and defaming the GOD of a majority of the population in this nation and a sizable number of people on this Planet To say that they have the right to do so while others do not have

such right is to openly flout the Constitution.

Therefore, the Defendants' hostility to GOD expressed in defamatory falsehood through the film, LTC, is not in the avowed spirit of the Constitution and therefore, cannot be entitled any protection or privilege.

C.

The Defendants contend in their motion for dismissal (Rec. Exc. 68, Appndx Page 97) that Plaintiff's case "raises exactly the sort of religious issue that courts may not decide. Under the First Amendment's Free Speech, Free Exercise and Establishment Clauses, such an issue is non justiciable." Yet the Establishment Clause is not inviolate and the Supreme Court has intervened on certain cases where issues of public policy, law and order, and common law issues were involved.

In Zorach v Clauson 343 U S 306, 312-315, where the Supreme Court ruled over the issue of Establishment Clause, it said inter alia:

"The First Amendment, however, does not say that in every and all respects there shall be a separation of Church and State Rather, it studiously defines the manner, the specific ways, in which there shall be no concert or union or dependency one on the other That is the common sense of the matter Otherwise the State and religion would be aliens to each other - hostile, suspicious, and even unfriendly Prayers in our legislative halls; the appeals to the Almighty in the messages of the Chief Executive; the proclamations making Thanksgiving Day a holiday; "so help me God" in our courtroom oaths - these and all other references to the Almighty that run through our laws, our public rituals, our ceremonies would be flouting the First Amendment "

"A fastidious atheist or agnostic could even object to the supplication with which the Court opens each session: "God save the United States and this Honorable Court." . . .We are a religious people whose institutions presuppose a Supreme Being. We guarantee the freedom to worship as one chooses. We make room for as wide a variety of beliefs and creeds as the spiritual needs of man deem necessary. We sponsor an attitude on the part of government that shows no partiality to any one group and lets each flourish according to the zeal of its adherents and the appeal of its dogma. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs. To hold that it may not would be to find in the Constitution a requirement that the government show a callous indifference to religious groups. That would be preferring those who believe in no religion over those who do believe

Therefore, Defendants' assertion does not hold that courts cannot intervene in the Plaintiff's case on the issue of the Establishment Clause. If it does, it will be preferring the Defendants' defamatory portrayal of GOD to the Truth and the long traditions of this nation, respecting all religions

In Lynch v. Donnelly, 465 U.S. 668, 674-678, wherein the Supreme Court also ruled another case on the issue of Establishment Clause, it said inter alia:

"This Court has explained that the purpose of the Establishment and Free Exercise Clauses of the First Amendment is "to prevent, as far as possible, the intrusion of either (the church or the state) into the precincts of the other." Lemon v Kurtzman 403 U S 602, 614, 91 S Ct 2105, 2112, 29 L Ed 2d 745 (1971) At the same time, however, the Court has recognized that "total separation is not possible in an absolute sense... The

concept of a "wall" of separation is a useful figure of speech probably deriving from views of Thomas Jefferson. The metaphor has served as a reminder that the Establishment Clause forbids an established church or anything approaching it. But the metaphor itself is not a wholly accurate description of the practical aspects of relationship that in fact exists between church and state."

" In the very week that Congress approved the Establishment Clause as part of the Bill of Rights for submission to the states, it enacted legislation providing for paid Chaplains for the House and the Senate. In Marsh v. Chambers, 463 U.S. 783, 103 S.Ct. 3330, 77 L.Ed.2d 1019 (1983), we noted that 17 Members of that First Congress had been Delegates to the Constitutional Convention where freedom of speech, press, and religion and antagonism toward an established church were subjects of frequent discussion. We saw no conflict

with the Establishment Clause when Nebraska employed members of the clergy as official legislative Chaplains to give opening prayers at sessions of the state legislature. Id., at 791, 103 S.Ct., at 3336. It is clear that neither the 17 draftsmen of the Constitution who were Members of the First Congress, nor the Congress of 1789, saw any establishment problem in the employment of congressional Chaplains to offer daily prayers in the Congress, a practice that has continued for nearly two centuries. It would be difficult to identify a more striking example of the accommodation of religious belief intended by the Framers."

" Other examples of reference to our religious heritage are found in the statutorily prescribed national motto "In God We Trust," 36 U.S.C. Section 186, which Congress and the President mandated for our currency, see 31 U.S.C. Section 5112(d)(1) (1982 ed.), and in the language

"One nation under God," as part of the Pledge of Allegiance to the American flag That pledge is recited by many thousands of public school children - and adults - every year Art galleries supported by public revenues display religious paintings of the 15th and 16th centuries, predominantly inspired by one religious faith The National Gallery in Washington, maintained with Government support, for example, has long exhibited masterpieces with religious messages, notably the Last Supper, and paintings depicting the Birth of Christ, the Crucifixion, and the Resurrection, among many others with explicit Christian themes and messages The very chamber in which oral arguments on this case were heard is decorated with a notable and permanent - not seasonal - symbol of religion: Moses with the Ten Commandments Congress has long provided chapels in the Capitol for religious worship and meditation Equally pervasive

is the evidence of accommodation of all faiths and all forms of religious expression, and hostility toward none."

Therefore, the Defendants' offending film, LTC, is contrary to this spirit of religious tolerance and the Establishment Clause can be no bar for Plaintiff to find justice when precisely such a public policy of respect to all religions is openly infringed by the Defendants

D

Defendants cite two cases principally and five others to support their special constitutional privilege over the Plaintiff, and their contention for a summary dismissal of Plaintiff's case, but none of them are applicable to the Plaintiff's case because they are not similar as to the issues or as to facts or as to nature of the parties

The issue of Defendants' constitutional privilege over the Plaintiff's is just unconstitutional as

detailed hereto before. Secondly, Plaintiff's case alleges common law offences such as profanity and slander by defamatory falsehood by Defendants, with resultant injury to the Plaintiff and others, which are not protected by the First Amendment and are in fact, abuse of Defendants' claimed rights. These abuses, not protected by the First Amendment as stated in the original complaint, must be tried by a jury and adjudicated by the court because they raise issues of fact.

Defendants further state (Rec. Exc. Pgs 67-68, Appendix, Page No: 96) that the Plaintiff's case "posits a theological controversy. The Plaintiff reads the Bible one way. He asserts that the film's interpretation is different and wrong, and that it defames Christ and God. In order to determine this CLAIM, the court would have to determine the true story of Christ."

Plaintiff submits that the discussion hereto before would justify intervention in a matter of public policy such as this case touches upon, relative to religious tolerance and inter-religious harmony, in the interest of societal peace and harmony, and that the Establishment Clause will not be a bar to this intervention

Besides, Plaintiff submits that in making the above statement, Defendants inadvertently admit that there is an issue of fact, and that is whether the defamatory film is true or false in relation to the Bible and other historical records. Plaintiff has provided as an Appendix to his complaint, extracts from the Bible and the Urantia Book which gives the historical mission of Christ, to prove his allegation that the Defendants have defamed GOD. Whether the Plaintiff reads the Bible one way and the Defendant another way, and whether Plaintiff's reading is correct or not which may or may

not prove Defendant's offence, is an issue of fact which only a jury can determine, as well as other issues connected with this case, such as profanity, defamation and resultant injury suffered by the Plaintiff and other believers.

Defendant cites U.S. v. Ballard 322 U.S. 78, 86-87 to support his contention that no court can adjudicate Plaintiff's case. But the cited case has no relevance to Plaintiff's case as to facts and issues. Although this is a mail-fraud case in which Ballard et al belonging to a religious sect, having certain false religious beliefs, the issue before the Supreme Court was whether those religious beliefs were honestly believed to be true. The issue was one of "religious belief" and not defamatory falsehood, profanity and resultant injuries, which is the Plaintiff's case. Even in Ballard, the Supreme Court, citing Davis v. Beason 133 U.S. 333, 342, observed:

"With Man's relations to his Maker and the obligations he may think they impose, and the manner in which an expression shall be made by him of his belief on those subjects, no interference can be permitted, provided always the laws of society, designed to secure its peace and prosperity, and the morals of its people, are not interfered with."

It is the latter that the Defendants infringed - the morals of the common law and the morals of public policy of religious tolerance, respect and non-interference, which is a justiciable issue. Also, the defamatory falsehood of the film, LTC, has no First Amendment protection: Herbert v. Lando, 441 U.S. at 153 (1979); Curtis Pub. Co. v. Butts 388 U.S. at 130 (1967). Ballard did not raise any such issue.

Next, the Defendants cite another citation which is also irrelevant to Plaintiff's case as to facts and issues:

Joseph Burstyn v. Wilson 343 U.S. 495, 505 (1952). (See Appendix: Pages 98-99)* This is an appeal taken by Burstyn because of a prior restraint of their film, "MIRACLE", by New York Censor Board (Nielson) and the comment of the Supreme Court of governmental non-interference relates to attack on "religious doctrine" as opposed to common law violation of defamatory falsehood, profanity and interference with the rights of others, which are the issues of Plaintiff's case.

Besides, the Defendants have cited Cantwell v. State of Connecticut, 310 U.S. 296, which is similar to Ballard on the issue of religious belief as opposed to Plaintiff's case and claim.

In addition, the Defendants have cited the following three cases, all of which are irrelevant to Plaintiff's case as to facts, issues and parties. All of them relate to internal church disputes on property, belief or doctrine. Neither the

---

*: Record Excerpts Page 68 in original submission.

Plaintiff nor the Defendants are members of the same church and involved in doctrinal and property disputes. The cases are: Presbyterian Church in the U.S. v. Mary Elizabeth Blue Hull Memorial Presbyterian Church, 393 U.S. 440, 450; Crowder v. Southern Baptist Convention, 828 F.2d 718, 721; Paul v. Watch Tower Bible and Tract Society, 819 F.2d 875, 883.

Lastly, the Defendants cite New York Times v. Sullivan 376 U.S. 254 and comment: "State libel laws are subject to First Amendment constraint." But the comment is irrelevant as the Plaintiff has not filed his case under any State Law. However, New York Times would be in favor of the Plaintiff as it may resolve the broader issue of defamatory falsehood as unprotected speech against the Defendants:

"It does indeed go without saying that an official, who is in fact guilty of using his powers to vent his spleen

upon others, or for any other personal motive not connected with the public good, should not escape liability for the injuries he may so cause; and, if it were possible in practice to confine such complaints to the guilty, it would be monstrous to deny recovery." (NEW YORK TIMES CO. v SULLIVAN 376 U.S. 254, 302)

Besides the foregoing, Plaintiff would draw the Court of Appeals' attention to Plaintiff's statement on the violation of U S Statutes, Article 18, Section 1464 and 1465 by the Defendants, which will be included in Plaintiff's revised complaint Plaintiff has advised the District Court that his complaint will be revised.

POINT II

THE LOWER COURT ERRED IN HOLDING DEFENDANTS' PLEA THAT PLAINTIFF'S PETITION ALSO WARRANTS DISMISSAL UNDER TEXAS DEFAMATION LAW.

In addition to constitutional grounds urged by the Defendants, they have also

urged dismissal(Rec.Exc.69-70,Appndx, Pgs 101-102) of the Plaintiff's case on Texas defamation law and have quoted four cases on defamation of the dead, Renfro v. Lawson, 160 S W 2d, 246; Goldstein v KDFW, 541 S W 2d , 862; Gonzales v Times Herald Printing Co, 513 S.W.2d., 124; Keys v. Interstate Circuit, Inc., 468 S.W 2d , 485 As submitted before, to the District Court,(Rec.Exc 82-83, Appndx,pgs 117-118), Plaintiff has not filed his complaint under State Law but under Federal law, and the Plaintiff is not bound by Texas Law. In U.S v. Judith Kuch, 288 F Supp., 439, 449 (1968), it was said by the court: "This court, however, is not bound by the decisions of the California Supreme Court The concern here is to analyze the scheme and effects of the federal statutes under which Kuch has been indicted." There are a number of Supreme Court cases on defamation and on false statements which

will more aptly apply to Plaintiff's case, which were quoted Supra, Page 26.

Besides, Plaintiff is not suing for defamation of the dead. Apparently, Defendants contend that Jesus Christ is dead. But Plaintiff contends that Christ, the Creator, is not dead, but alive, which is the truth. Plaintiff has provided historical proof that Christ, the God and Creator of this Universe is alive. (Record Excerpts, Pages 54-63), and therefore, the issue of defamation of the dead does not arise. Even if it is raised as an issue, it has to be resolved by the jury as an issue of fact.

Plaintiff however, submits that he had submitted to the District Court before, two cases in support of his standing on behalf of the third party - Jesus Christ: Alliance of Senior Citizens of Greater Philadelphia v. Margaret Heckler, 789 F.2d. 931, Bowman v. Wilson, 672 F 2d 1145. Besides, there are other

cases that could be cited for third party standing, which is a matter of discretion for the courts in a case like this which affects many others, such as in the environmental issue cases: Sierra Club v. Morton, 405 U.S. 727, 92 S.Ct. 1361 (1972), (The fact that the injury alleged need not be limited to economic injury); United States v. Students Challenging Regulatory Agency Procedures, 412 U.S. 669, 93 S.Ct. 2405 (1973), (Standing is not to be denied simply because many people suffer the same injury); Burrows v. Jackson 346 U.S. 249 (1963), (Granted Third Party standing to White seller to assert the rights of Black purchaser).

Besides, the Defendants' state Texas State case, Belo Corp. v. Raysor, 644 S.W.2d. 71, 79, and assert that "under the First Amendment, there is no such thing as a false idea" and therefore, they are entitled to First Amendment protection. Whether it is an "idea" or a "fact" is a

triable issue, and cannot be decided in a summary judgment

In support of Plaintiff's assertion that the District Court erred in granting a summary judgment of dismissal before a trial, Plaintiff would like to cite the following cases:

Williford v. People of California, 352 F 2d 475, 476: "In passing on a motion to dismiss for failure to state a claim, the facts set forth in the complaint must be assumed to be true and complete, and affidavits and other evidence may not be considered. See Land v. Dollar, 330 U S. 731, 735, 67 S Ct 1009, 91 L Ed 1209, n 4. It follows that the dismissal of the action under Rule 12(b) (6) cannot be sustained on the ground relied upon by the district court the order is not sustainable as a summary judgment because there are genuine issues as to material facts. Rule 56(c) expressly precludes the entry of summary

judgment where there are such issues. In our view there are genuine issues of material fact."

Saranoff et al v. Claglia, 165 F.2d at 167: "On the basis of the record before us, and in view of the weight to be accorded the complaint on a motion for summary judgment, we are not prepared to say that Defendants' version must be believed, nor that the allegations of the Plaintiffs, which the court below deemed "roughly drawn" are so vague and general as to strip them of all credibility. The resolving of such issues must be left to the finders of fact, and not decided upon a motion for summary judgment."

Rolls Mfg. Co. v. Marco Chemicals, 92 F. Supp. 218, 220: "A litigant has a right to a trial where there is the slightest doubt as to the facts, and a denial of that right is reviewable; but refusal to grant a summary judgment is not reviewable. Such a judgment, wisely used,

is a praiseworthy time-saving device But although prompt dispatch of the judicial business is a virtue, it is neither the sole nor the primary purpose for which Courts have been established Denial of a trial on disputed facts is worse than delay (Cf Arenas v United States 322 U S 419, 429, 433, 64 S Ct 1090, 88 L Ed 1363) The district courts would do well to note that time has often been lost by reversals of summary judgments improperly entered The motion for summary judgment is denied."

Before closing, Plaintiff would like to submit the social repercussions of the decision of the District Court in this case, that would contravene the time honored policy of inter racial and inter religious harmony in this nation If the District Court's decision is affirmed, it would give an open license to other producers in Hollywood to exploit other religious themes with defamatory

falsehood, and would also encourage other character assassinations of other historical figures. More recently, the defamatory film, LTC, has encouraged a maverick artist to drown the "crucifix of Christ", the symbol of Christianity, in the artist's "urine", which has aroused a wave of religious prejudice and protest. Such profanity is against the U.S. Code (Article 18, Section 1464 and 1465), and the policies of respect to various religions, which is a part of our national law. In the words of Senator Jesse Helms, such profanity is an "obscene blasphemy . . . which degenerates the faith of millions of Americans." And the grossly offending and defamatory film, LTC in the Senator's words:

> "As for "The Last Temptation of Christ", the first commandment given man by God concerns the honor to be accorded God, Who warns: "Thou shalt have no other

gods before Me " Whatever gods the producers of this vile movie were serving (the god of the fast buck, whose shrine is the box office?), their blasphemous assault on God's only Begotten Son offends God and should offend all decent-minded men " (Letter dated September 21, 1989, from Senator Jesse Helms to Veda Nayak, copy included in Appendix, Pages 31-33)*

Plaintiff would like to submit to the Court that this defamatory LAST TEMPTATION OF CHRIST story was staged as a play two years ago in South India, when some Christians stood against the play and sought to ban it by a court action. The case went up to the Supreme Court of India, and that high court decided that the play was indeed defamatory and banned it. As a result, the blasphemous film, LTC, has been banned from being imported into India

---

*: Copy included in Addendum in original submission

Plaintiff will submit separately, citations on this case which has been requested, but suffice it to say that another Democratic Republic which has similar traditions of free speech, freedom of religion, etc. has found the film objectionable, and not protected either by free speech or freedom of religion

Also, Plaintiff would like to state that he will be prepared to submit for the Court's review, a copy of the recently released video tape of the offending film, LTC, if the Court so desires

CONCLUSION

On the basis of the foregoing authorities and argument, the Appellant submits that the decision of the District Court be reversed and the case remanded to that court for further proceedings.

Respectfully Submitted,

April 7, 1990
Houston, Texas.

(VEDA NAYAK)
Plaintiff-Appellant
Pro Se
4770, W Bellfort,# 285
Houston, TX 77035
Tel: (713)684-6552

ADDENDUM

PLAINTIFF'S NOTES ON PROFANITY UNDER U S CODE 18, SECTIONS 1464 AND 1465.

U.S. Code Article 18, Section 1464 prohibits against use of "any obscene, indecent or profane language by means of radio communications " Section 1465 of Article 18 prohibits transportation in "interstate or foreign commerce for the purpose of sale or distribution of any obscene, lewd, lascivious or filthy book, pamphlet, picture, film, paper recording, electrical transcription or other article capable of producing sound or any other matter of indecent or immoral character, shall be fined not more than $5000 or imprisoned not more than five years or both."

Defendants have profaned GOD by branding him by his own confession and falsely in their film, LTC, as a liar, a traitor, an adulterer and a sinner. The film is a woeful medium of profanity and

obscenity as God has been shown in such lewd sense that he committed incest with his own mortal children, in raw sexual contact with Mary Magdalene, and depicted as committing adultery with the Lazarus sisters Such a defamatory falsehood has no basis at all in historical or biblical traditions

Profanity is defined in the dictionary as contempt or disregard for God or holy things, irreligious, irreverent, blasphemous, while obscenity is defined as offending modesty or decency, filthy and vile Vile means highly objectionable, disgusting, evil, low and immoral Both these red lettered words and their meanings fully define Defendants' film, LTC

Defendants have violated, prima facie, both Section 1464 and 1465 of Article 18 of the U S Code, because they have transported the profane and obscene film material interstate and

internationally, in various formats, both to sell and exhibit the film for profit, and by intending to broadcast the film through cable and television media, either in the present or the near future. They still continue to unlawfully profane the God of this Universe.

The following cases confirm the criminality of profanity and indecent speech, which is the offence of the Defendants' film, LTC:

"The question of what constitutes profane language has been before the courts for centuries. The subject is usually dealt with as a branch of the common-law offense of blasphemy, but in the United States particularly it has been a frequent subject of legislation. In the Century dictionary, "profane" is defined as follows: "Irreverent toward God or holy things; speaking or spoken, acting or acted, in manifest or implied contempt of sacred things; blasphemous: as, profane

language; profane swearing." Duncan v. United States, 48 F.2d at 128.

"It's true that profane language is language irreverent toward God or holy things." Georgetown v. Secury 90 S.C. 346.

"If there were any reason to believe that the Commission's characterization of the Carlin monologue as offensive could be traced to its political content - or even to the fact that it satirized contemporary attitudes about four-letter words - First Amendment protection might be required. But that is simply not this case. These words offend for the same reasons that obscenity offends. Their place in the hierarchy of First Amendment values was aptly sketched by Mr. Justice Murphy when he said: "(S)such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and

morality." FCC v. Pacifica Foundation, 438 U.S. at 746.

The principle that profanity and obscenity are not protected by First Amendment freedom of speech has been held throughout and until this time, and in Roth v. United States 354 US 482,483 (1956), the Supreme Court held that: "The guaranties of freedom of expression in effect in 10 of the 14 States which by 1792 had ratified the Constitution, gave no absolute protection for every utterance. Thirteen of the 14 States provided for the prosecution of libel, and all of those States made either blasphemy or profanity, or both, statutory crimes. As early as 1712, Massachusetts made it criminal to publish "any filthy, obscene, or profane song, pamphlet, libel or mock sermon" in imitation or mimicking of religious services. Acts and Laws of the Province of Mass. Bay, c. CV, Section 8 (1712), Mass. Bay Colony Charters & Laws

399 (1814) Thus, profanity and obscenity were related offenses "

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 90-2188

VEDA NAYAK,

Plaintiff-Appellant,

v.

MCA, INC., et al.,

Defendants-Appellees

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

BRIEF FOR THE APPELLEES

James T. McCartt
Susman Godfrey
5100 First Interstate
Bank Plaza
1000 Louisiana
Houston, Texas 77002
(713)651-9366

Attorney for the Appellees

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No 90-2188

VEDA NAYAK,

Plaintiff-Appellant,

v

MCA, INC ,et al ,

Defendants-Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

CERTIFICATE OF INTERESTED PARTIES

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case These representations are made in order that the Judges of this Court may

evaluate possible disqualification or recusal.

(1) Veda Nayak

(2) MCA, Inc.

(3) Cineplex Odeon Corporation

(4) Ben Drummond

JAMES T. MCCARTT (sd)

Attorney of record for the Appellees

STATEMENT REGARDING ORAL ARGUMENT

This appeal presents succinct, straightforward issues. Appellee submits that oral argument is not necessary

INDEX OF AUTHORITIES

A H Belo Corp v Rayzor,
644 S W 2d 71 (Tex App - Ft Worth 1982, writ ref'd n r e) 5

Barrow v Enterprise Co ,
387 S W 2d 426 (Tex Civ App - Beaumont 1964, no writ) 5

Joseph Burstyn, Inc v Wilson,
343 U S 495, 72 S Ct 900(1940) ... 4

Cantwell v Connecticut,
310 U S 296, 60 S Ct 900(1940) ... 4

Crowder v Southern Baptist Convention,
828 F 2d 718(11th Cir 1987),
cert denied, 484 U S 1066(1988) ... 4

Dick v Allen,
303 S W 2d 390 (Tecx Civ App - Eastland 1957, no writ) 5

Gertz v Robert Welch, Inc ,
418 U S 323, 94 S Ct 2997 (1974) ... 5

Gonzales v Times Herald Printing Co,
513 S W 2d 124 (Tex Civ App - Dallas 1974, no writ) 5

Keys v Interstate Circuit, Inc,
468 S W 2d 485 (Tex Civ App - Tyler 1971, writ dis'd w o j) 5

New York Times Co v Sullivan,
376 U S 254, 84 S Ct 710(1964) ... 4

Newspapers, Inc v Matthews,
339 S W 2d 890(Tex 1960) 5

Paul v Watchtower Bible &Tract Society,
819 F 2d 875(9th Cir), cert denied, 484 U S 926(1987) ... 4

Presbyterian Church in the U.S. v. Mary Elizabeth Blue Hill Memorial Presbyterian Church, 393 U.S.440, 89 S.Ct. 601 (1969) 4

Renfro Drug Co. v. Lawson, 160 S.W.2d 246 (Tex. 1942) 5

U.S. v. Ballard, 322 U.S. 78 64 S.Ct 882(1944) 3

STATEMENT OF ISSUES

This appeal presents the following questions:

1 Would it violate the Constitution for the district court to try this case?

2 Do common law principles bar this action?

The defendants submit the answer to both questions is "yes "

STATEMENT OF THE CASE

Veda Nayak filed this suit on August 10, 1989 In his complaint, the plaintiff seeks an injunction against further distribution of the film, "The Last Temptation of Christ "

Basically, the plaintiff complains that "The Last Temptation of Christ" is sacrilegious He asserts that it "profaned and slandered Plaintiff's God and God of this Universe by defamatory falsehood Before this court, he traces the film to a

conspiracy by "the Jewish movie producers-distributors of Hollywood "

The defendants filed a timely motion to dismiss the complaint under Rule 12(b)(6) The motion pointed out that this case raised non justiciable religious issues, and that it also conflicts with basic principles of defamation law

The district court entered its Order of Dismissal on January 17, 1990

SUMMARY OF THE APPELLEES ARGUMENT

This case raises issues that are not justiciable Trial of religious issues raised by the Plaintiff would violate the First Amendment

In addition, dismissal is warranted under Texas defamation law There is no defamation action in favor of a plaintiff who is not injured in his own reputation Moreover, opinion may not be the subject of a defamation suit

ARGUMENT

A. It would violate the Constitution for any court to try this case.

This case posits a theological controversy. The plaintiff reads the Bible one way. He asserts that "The Last Temptation of Christ" presents a different and incorrect interpretation, and that it defamed Christ and God. In order to resolve his claim, the district court would have to determine the "true story" of Christ.

The plaintiff thus raises exactly the sort of religious issue that courts may not decide. Under the First Amendment's free speech, free exercise and establishment clauses, such issues of religious correctness lie in a non justiciable "forbidden domain";

> The law knows no heresy, and is committed to the support of no dogma the establishment of no sect. Freedom

of thought, which includes freedom of religious belief, is basic in a society of free man. It embraces the right to maintain theories of life and death and of the hereafter which are rank heresy to followers of the orthodox faiths. Men may believe what they cannot prove. They may not be put to the proof of their religious doctrine or beliefs. Many take their gospel from the New Testament. But it would hardly be supposed that they could be tried before a jury charged with the duty of determining whether those teachings contained false representations. The religious views espoused by respondents might seem incredible, if not preposterous, to most people. But if those doctrines are subject to trial before a jury charged with finding their truth or falsity, then the same can be done with the religious beliefs of any

sect When the triers of fact undertake the task, they enter a forbidden domain U S v Ballard, 322 U S 78, 86-87, 64 S Ct 882, 886-887 (1944)

In accord with this principle, the Supreme Court has held that no court could determine whether the film, "The Miracle" was unlawfully "sacrilegious :

> (I)t is enough to point out that the state has no legitimate interest in protecting any or all religions from views distasteful to them which is sufficient to justify prior restraints upon the expressions of those views It is not the business of government in our nation to suppress real or imagined attacks upon a particular religious doctrine, whether they appear in publications, speeches, or motion pictures

Joseph Burstyn, Inc v Wilson, 343 U S 495, 505, 72 S Ct 777, 782 (1952) See

also, e g , Presbyterian Church in the U S v Mary Elizabeth Blue Hull Memorial Presbyterian Church, 393 U S 440, 450, 89 S Ct 601, 606-607 (1969) (the First Amendment forbids civil courts from interpreting church doctrine); Cantwell v Connecticut, 310 U S 296, 310, 60 S Ct 900, 906 (1940) (under the Constitution, the religious advocate may resort "to exaggeration, to vilification of men who have been, or are, prominent in church or state, and even to false statement"); Crowder v Southern Baptist Convention, 828 F 2d 718, 721 (11th Cir 1987), cert denied, 484 U S 1066 (1988) ("By adjudicating religious disputes, civil courts risk affecting associational conduct and thereby chilling the free exercise of religious beliefs Moreover, by entering into a religious controversy and putting the enforcement power of the state behind a particular religious

faction, a civil court risks 'establishing' a religion"). cert. denied, 108 S.Ct. 1028 (1988).

These principles apply just as much in a defamation suit as in any other context. See Paul v. Watchtower Bible & Tract Society, 819 F.2d 875, 883 (9th Cir.), cert. denied, 484 U.S. 926(1987) ("offense to someone's sensibilities resulting from religious conduct is simply not actionable in tort"); cf. New York Times Co. v. Sullivan, 376 U.S. 254, 84 S.Ct. 710(1964) (state libel laws are subject to First Amendment constraints.)

B. Common law tort principles bar this action.

The constitutional grounds are sufficient to warrant dismissal. The defendants submit, however, that dismissal is also required under basic principles of defamation law:

(1) The plaintiff claims that God and Christ, not the plaintiff, have been defamed. There is, however, no defamation action in favor of a plaintiff who is not injured in his own reputation. See, e.g., Newspapers, Inc. v. Matthews, 339 S.W.2d 890, 893 (Tex. 1960) ("the asserted libel must refer to some ascertained or ascertainable person, and that person must be the plaintiff"); Renfro Drug Co. v. Lawson, 160 S.W.2d 246 (Tex 1942) (no recovery for defamation of the dead); Goldstein v. KDFW, 541 S.W.2d 862, 864 (Tex. Civ. App. - Waco 1976, writ ref'd n.r.e.); Gonzales v. Times Herald Printing Co., 513 S.W.2d 124, 125-126 (Tex. Civ. App. - Dallas 1974, no writ) (no recovery for defamation of the dead); Keys v. Interstate Circuit, Inc., 468 S.W.2d 485, 486 (Tex. Civ. App. - Tyler 1971, writ dis'd w.o.j.) (no recovery by survivors of Clyde Barrow for depiction in the film

"Bonnie and Clyde"); Barrow v. Enterprise Co., 387 S.W.2d 426 (Tex. Civ. App. - Beaumont 1964, no writ); Dick v. Allen, 303 S.W.2d 390, 391 (Tex. Civ. App. - Eastland 1957, no writ)

(2) Opinions may not be the subject of a defamation suit:

> Under the First Amendment there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas.

A.H. Bel Corp. v. Rayzor, 644 S.W.2d 71, 79 (Tex. App. - Ft. Worth 1982, writ ref'd n.r.e.), quoting Gertz v. Robert Welch, Inc., 418 U.S. 323, 94 S.Ct. 2997 (1974).

STATEMENT CONCERNING THE APPELLANT'S BRIEF

The defendants have tried to maintain a conciliatory tone in this case. Their counsel must, however, register his most strenuous objection to the anti-Semitic

statements in the Plaintiff's brief.* They are offensive in the extreme.

The plaintiff is proceeding without counsel. His pro se status does not, however, give him license to conduct himself in such a thoroughly unprofessional manner.

CONCLUSION

Under well established principles, the plaintiff may not use the courts as a

---

* See, e.g., Appellant's Brief at 3 ("For quite some time, the Jewish movie producers-distributors of Hollywood (hereinafter 'JMP') have been attempting to create a different Jesus for the world"); id. at 17 ("The Principal Defendants, the principal executives of which are Jewish and apparently of Jewish faith, have callously and maliciously produced the film LTC profaning Christ".)

vehicle to penalize those who may not agree with his religious views

The district court properly dismissed the complaint. Its judgment should be affirmed.

Respectfully submitted,

JAMES T. MCCARTT (sd)

James T. McCartt
Susman Godfrey
5100 First Interstate
Bank Plaza
1000 Louisiana
Houston, TX 77002-5096
(713)651-9366

Attorney for the Appellees

(TRUE COPY)

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 90-2188

VEDA NAYAK,

Plaintiff-Appellant,

v

MCA, INC. et al

Defendants-Appellees

APPEAL FROM THE UNITED STATES

DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

REPLY BRIEF FOR THE APPELLANT

Veda Nayak
Plaintiff Pro Se
4770, W. Bellfort,
Suite 285
Houston, TX 77035
(713)684-6552

STATEMENT REGARDING ORAL ARGUMENT

Appellant submits that although this court may decide this appeal on the basis of the records filed, he would be ready and willing to appear before the court to answer any questions and also to present a video tape of the film, "THE LAST TEMPTATION OF CHRIST", recently released by the Defendants, to demonstrate the offensive nature of the film and how the Plaintiff and others have been injured by such offence, and how it continues to injure the Plaintiff and others, and their families.

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 90-2188

VEDA NAYAK,

Plaintiff-Appellant,

v

MCA, INC. et al

Defendants-Appellees

APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

REPLY BRIEF FOR THE APPELLANT

STATEMENT OF THE CASE

Plaintiff/Appellant (hereinafter Plaintiff), submits that Defendants/ Appellees (hereinafter Defendants) allude (Pg 224-225 of Appendix, Appellee's Brief)

that Plaintiff's chronological statement of Defendants' acts in planning, producing, distributing and exhibiting the film "THE LAST TEMPTATION OF CHRIST" (hereinafter LTC) in his Brief (Appendix, Pg 160, 185) as statement of "conspiracy", although Plaintiff never intended to mean that way. Conspiracy (1) means an illegal, treasonable or treacherous plan to harm or destroy another person, group or entity ... a combination of persons banded secretly together and resolved to accomplish an evil or unlawful end; a striking concurrence of tendencies, circumstances or phenomena as though in planned accord."

The issue of "conspiracy" alluded by the Defendants, if established, will lend a stronger motive of the Defendants to

---

(1) Webster's Third New International Dictionary (G&C Merriam Co. Publishers)

profane and slander GOD and injure the people of GOD including the Plaintiff. And as stated elsewhere in Appellant's Brief (Pg 17, Appendix, Pg 185-186), the motive is sustained by the fact that such a profanity against Christ - God of the Christians and God of this Universe, could not have been fabricated by Christians. Logically, it can only be done by those who are opposed to Christ, with a prejudiced intent to insult and injure the people of Christ. Plaintiff submits that this finding of fact by a triar of fact - a jury - would be an important finding in the adjudication of this case. For such a false religious propaganda and spiritual warfare with resultant injuries is not an expression protected by the First Amendment.

Plaintiff would also like to distinguish Defendants' statement (Pg 2 of Appellee's Brf) that they did not state in

their motion to dismiss under Rule 12(b) before the District Court that Plaintiff's complaint conflicts with the "basic principles of defamation law" per se but "basic principles of Texas defamation law"

ARGUMENT

A POINTS AND CASES NOT DISTINGUISHED BY APPELLEES:

Plaintiff submits that the Defendants have not distinguished any of the points and cases mentioned in Appellant's Brief (Appellant's Brief: See Appendix, Pages 180 to 212)*

Plaintiff's main thrust of his argument is that Defendants' First Amendment free speech right does not give them the unilateral right to falsely profane and slander GOD and thereby insult and injure the people of God, including the Plaintiff, and thus interfere with their freedom of worship and religion Under the Constitutional protection of

*: Pages 13 to 33 in original submission.

equal rights to law, the Defendants have no special privilege to abuse their First Amendment rights to injure others and carry out a vendetta at the expense of others' sentiments, peace and tranquility Such infringements of others' rights and interference with others' religious freedom have no protection under the Constitution, and the Defendants have failed to address this basic point and issue, which is the cause of this suit

Defendants state that "religious issues" are not justiciable in any court (Page 2, last para, Appellee's Brief, See Appendix,Pg 225), whereby Defendants want the court to condone their transgression of others' rights; to condone their continued profanity and slander of GOD which is a violation under U S Code (Sections 1464 and 1465); to condone their continued assault on the Plaintiff and the people of GOD by continuing to insult and

injure their sentiments, peace and tranquility by continuing to exhibit the offending film LTC, and extending such injuries to include children by expanding the media formats to video, cable and television, etc ; to condone their action to carry out a religious propaganda and prejudice injurious to inter racial and inter religious harmony of the Republic; to condone their spiritual warfare to slander another's religion and faith

Plaintiff submits that religious issues which involve violation and/or protection of others' rights are justiciable, even as the Supreme Court has held, affirmed and/or agreed to review in a number of cases Plaintiff has cited relevant cases in this regard (Appellant's Brief,Pg 18 to 23, See Appendix,Pg 152) to establish that the lower court erred in dismissing the Plaintiff's complaint on a

summary basis before a trial. Plaintiff reiterates these in brief here:

(i) Winters v. New York 333 U.S. 507, 515 :Acts of gross and open indecency or obscenity injurious to public morals are indictable at common law as violative of public policy.

(ii) Lynch v Donnelly 465 U S 668, 670-678, 104 S Ct. 1355, 1358 to 1361: Constitution does not require complete separation of church and state and it affirmatively mandates accommodation, not merely tolerance of all religions and forbids hostility toward any. Congress has practised from the beginning a policy of respect to religious sentiments, sensitiveness to practice religious tolerance, upheld religious heritage and statutorily prescribed national motto "In God We Trust" 36 U S C Section 186, which

Congress and the President mandated for our currency (31 U S C Section 5 1112(d)(1) (1982 ed) and in the language "one nation under God "

i) Zorach v. Clauson 343 U S. 306, 312-315: First Amendment does not say that in every and all respects there shall be a separation of church and state; does not say that state and religion would be alien to each other; does not say that government show a callous indifference to religious groups which would be preferring those who believe in no religion over those who do believe; does not say that invocation of God's name would be "flouting" the First Amendment; does not say that we cannot be a religious people whose institutions presuppose a supreme being; does not say that government show partiality to any one group, etc

Plaintiff therefore reiterates that the Establishment Clause under the First Amendment will not be a bar to try Plaintiff's case. To not to try the case would be to prefer Defendants' presumed unilateral rights to interfere with others' rights and to give open license to the Defendants to continue to insult and injure Plaintiff and others by profaning and slandering their God through their film, LTC.

Besides, the Defendants have not distinguished Plaintiff's citations on standing and on the inapplicability of summary judgment entered by the District Court (Appellant's Brief, Appendix Pages 207-209).*

B RESPONSE TO DEFENDANTS'/APPELLEES' ARGUMENT
(Appellees' Brief: Appendix, Pgs 226-234)**.

Plaintiff disagrees with the Defendants that Plaintiff's case is a theological controversy. Plaintiff has not

*: Pg 29-31 in original submission.

**: Pg 3 to 5 in original submission.

filed the case based on any religious dogma or opinion Matters of Christ's life story based on historical facts, libel and slander to the Deity and resultant injury to the Plaintiff and others are not matters of theology and or dogma, but simply matters of fact - bare facts and nothing but facts, and therefore, can be tried and established under applicable laws and common law Profanity and slander directed against GOD cannot escape under the banner of Defendants' or any others' "theology" or "dogma", then Defendants would be openly flouting the U S Code Defendants' insult and injury of Plaintiff's God and God of many other people, cannot be suppressed under Defendants' misunderstood First Amendment rights For an injury is an injury wrongly and deliberately inflicted by the Defendants on the Plaintiff and others, for which they ought to be liable

GOD enshrined in the Constitution is the God everyone sees from his own religious perspective and understanding The Defendants, by abrogating the public policy of respect of others' faith or religion, have profaned and slandered Christ the God of the majority of the people in this Republic - they have therefore profaned and slandered God enshrined in the Constitution It does not matter whether Defendants believe in this God or not, and they have a perfect right to believe what they like to (as belief is absolute), but they have no right to either profane or slander God (as it would violate the U S Code) and they have no right to insult and injure others by their action to profane and slander God, using deliberately, a false story and knowing that it is false Because the freedom to act in the exercise of religion is not

absolute, but subject to laws and regulations.

Also, in Lynch v Donnelly (104 S Ct at 1362(1984) it was held that in determining whether governmental activity violates Establishment Clause, inquiry calls for "line drawing and no fixed, per se rule can be formed. The Clause erects a blurred, indistinct and variable barrier depending on all the circumstances of a particular relationship."

It is clear that the above interpretation is the most recent one (1984) by the Supreme Court, and has not been distinguished by the Defendants.

C APPLICABILITY OF APPELLEES' AUTHORITIES:

Appellees have quoted the same authorities in their Brief (pgs 226-232*, which they quoted in their motion to dismiss Plaintiff's complaint before the District Court (See Appendix, Pages 97** to

*: Pgs 3 to 5 in original submission

**: Record Excerpts, Pgs 68 to 70 in original submission.

102). Plaintiff has dealt with these citations (Appellant's Brief: See* Appendix, Pgs 196-to 203), that they are not applicable to Plaintiff's case as they are not similar as to issues or as to facts or as to nature of the parties. Besides, as stated earlier, Defendants solely rely on the erroneous principle that their First Amendment right to freedom of speech is absolute in acting on that right, the way they acted, and on their assertion that the "religious issues" which arise out of their action are non justiciable, which is untenable and unsupported by Constitutional law.

Before this Court, Plaintiff will add and reiterate the following points on the inapplicability of cited authorities in Appellee's Brief (Appendix Pgs 226-232):

(a). U.S. v. Ballard 322 U.S. 78, 86-87, 64 S.Ct. 882, 886-887(1944): This case does not concern a dispute or

*: Appellant's Brief, 23-28 in original submission.

conflict between two private parties where one party profanes and slanders the God of the other party, and thereby insults and injures the other party and continues to do so with malice. Ballard is also not a case that involves slander of another party. It is a case between Ballard et al, a peculiar religious sect with rather strange religious practices, and the U.S. Government, which convicted it as violation of U.S. Codes. The Supreme Court held that the Establishment Clause was violated by the Government as the Sect had a right to practice its avowed faith. Here the Federal Government was directly intervening in the religious practices of a private religious body. But certainly, the courts will not refuse to try a case, if Ballard et al was guilty of profanity and slander, with resultant injury to another party. In order to illustrate this point, Plaintiff would like to cite

Chaplinsky v New Hampshire 315 U.S. 568, 571-572, which upheld punishment of Chaplinsky's offensive language in a public place according to New Hampshire's state statute.

"There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words - those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."

Defendants' film, LTC has profaned and slandered GOD - the Christ, by calling HIM a liar, a traitor, an adulterer and a SINNER, and such profane, libelous and insulting words have inflicted injury on the Plaintiff and other people of Christ, and have continued to do so because the Defendants continue to show their film in all media, knowing well that it offends many, and knowing well that the story of the film is false and frivolous, and is a blatant profanity against GOD.

(b) Defendants' citation of Joseph Burstyn, Inc. v. Wilson, New York Commissioner of Education, 343 U.S. 495, 505, 72 S.Ct. 777, 782(1952) is also not applicable to Plaintiff's case because they are not similar as to issues, context or parties. Firstly, it is a case between Joseph Burstyn, a private film company, and Wilson, a New York State Government official, on the issue of censor of a film

that was considered "sacrilegious" by the Government's Censor Board based on a New York State statute. The basic problem in this case was prior restraint of the film based on the Censor's conclusion that the film "Miracle" was sacrilegious, which was considered by the Supreme Court as unbridled censorship. The Supreme Court ruled basically on the issue of censorship of the film, "Miracle" and held that the standards of New York censorship statute were too vague and broad in the requirement that the film is not "sacrilegious". The Supreme Court also found an anomaly in the definition of the word *"sacrilegious" as according to

---

*: Defendants have also mistakenly used the word "sacrilege" (Appellee's Brief, p.2, Appendix Page 224), which the Plaintiff has not alleged, for the offence of the Defendants is not on any church property but on the Deity

English law, the term related mainly to church property and has nothing to do with blasphemy or profanity of GOD. In any case, the film "Miracle" did not raise any issue of profanity or slander of Deity with resultant injury to people such as the film LTC does. Even in the film, "Miracle", the Supreme Court observed: 343 U.S. at 502(1952):

"It does not follow that the Constitution requires absolute freedom to exhibit every motion picture of every kind at all times and all places. That much is evident from the series of decisions of this court with respect to other media of communication of ideas."

Besides, the Supreme Court specifically said in regard to the New York statute that censored "Miracle": 343 U.S. at 503:

"The statute involved here does not seek to punish as a past offence, speech

or writing falling within the permissible scope of subsequent punishment "

Therefore, the film LTC which is not censored by prior restraint, which continues to profane and slander GOD, which insults and injures the people of GOD is not comparable to the film, "Miracle". However, the Defendants can be punished for a past offence "within the permissible scope of subsequent punishment " Therefore, the film LTC cannot have total immunity regardless of its profanity and slander of Deity and resultant insult and injury to people.

In addition, the Defendants cite 3 other cases in Appellee's Brief (Id Page 4, See Appendix Pages 229,230)

(1) Presbyterian Church in the U.S. v. Mary Elizabeth Blue Hull Memorial Presbyterian Church, 393 U.S. 440, 450, 89 S.Ct. 601, 606-607(1969).

(ii) Crowder v Southern Baptist Convention, 828 F 2d 718, 721 (11th Cir 1987)

(iii) Paul v Watchtower Bible and Tract Society, 819 F 2d 875, 883 (9th Cir)

Plaintiff reiterates his statement in Appellant's Brief (Id 26, Appendix, Pages 201, 202) that none of these citations have any relevance, context or similarity to Plaintiff's case All of these citations relate to internal church disputes on property or doctrine Neither the Plaintiff nor the Defendants are members of the same church, and involved in property or doctrinal disputes

Besides, the Defendants cite Cantwell v Connecticut, 310 U S 296, 310, 60 S Ct 900, 906(1940), but this too is like Ballard, not applicable to Plaintiff's case Cantwell did not profane and slander GOD, and did not insult and injure the

people of God, like the film LTC does, using an international media and in all media.

Lastly, the Defendants cite New York Times Co. v. Sullivan, 376 U.S. 254, 84 S.Ct. 710(1964) and comment: "...State libel laws are subject to First Amendment constraints." But the comment is irrelevant as the Plaintiff has not filed his case under the State law, but federal law. In fact, the citation will go in Plaintiff's favor:

"It does indeed go without saying that an official, who is in fact guilty of using his powers to vent his spleen upon others, or for any other personal motive not connected with the public good, should not escape liability for the injuries he may so cause; and, if it were possible in practice to confine such complaints to the guilty, it would be monstrous to deny recovery."

(NEW YORK TIMES CO v SULLIVAN 376 U.S. 254, 302)

D DEFENDANTS' CITATIONS ON TEXAS DEFAMATION LAW:
(Appellees'Brief 4-5, Appendix,Pg 231-232)

Defendants state 7 citations that there is no relief for the defamation of the dead under Texas defamation law, which is not applicable to Plaintiff's case, as he is neither suing under State law, nor for the defamation of the dead Christ, the Creator of the Universe, is not dead but alive, and the Plaintiff has provided ample proof from the Bible and the Urantia Book based on living witnesses (Rec Exc 14-22, Appendix Pg 272-288) Plaintiff has not alleged that he is directly defamed. Plaintiff has alleged in his original complaint that Christ, the GOD of the Plaintiff and many other people, has been defamed by profanity and slander of the Defendants (Record Excerpts, Pages 14 to 22) Plaintiff has also alleged that the

Defendants, by slandering Christ - depicting him as a liar, a traitor, an adulterer and a SINNER had insulted and injured the Plaintiff and others, (Record Excerpts, Pages 34-37) and continue to injure them by continuing to exhibit the film, LTC Moreover, the injured will now include the children also, because the Defendants have released the film LTC on video format and are planning to release the film on cable and television. Such a coverage will demoralize and confuse the younger generation in Christian families, who will be shocked to see their GOD, their Savior having sex with his own mortal children (Mary Magdalene and the two Lazarus sisters), that their GOD was a liar, a traitor, a coward, an adulterer, demon possessed and a SINNER (Rec. Exc. 19-27, for selected specific scenes from the film, LTC. See Appendix, Pgs 45-59)

Therefore, the Texas State Defamation law citations on the defamation of the dead are not applicable to Plaintiff's case

III. APPELLEE'S COMMENT ON APPELLANT'S BRIEF (See Appendix, Pgs 232-233)*

Plaintiff disagrees with Defendants' counsel that his statement of facts as to Defendants' profanity and slander of Christ and resultant insult and injury to Plaintiff and other believers of GOD is anti-Semitic. Plaintiff has narrated the chronological order of events that led to the production, distribution and exhibition of the film and those who were involved in the film, who by and large, truly happen to be Jewish and apparently of Jewish faith, to establish an underlying motive of religious propaganda and bigotry against Christ and Christian belief as such an act is not protected by the First Amendment. By definition,

---

*: Pages 5-6 in original submission.

Defendants' disrespect and slander of Christ, knowing that it is false, and still publishing the film in different media formats in reckless disregard to the truth, is "malicious" Calling Christ, the Creator(1) of the Universe, a liar, a traitor, an adulterer and a sinner, to say the least is callous and Plaintiff has used these terms callous and malicious in his complaint and subsequent submissions as allegations to establish the real motives of the Defendants The terms - callous and malicious used are strictly legal and parliamentary in the context of the facts stated in this case

Defendants' counsel has incongruently taken pieces of material from Statement of

---

(1): Also see statements by Roosevelt Grier, " a movie company (MCA, INC) that would dare to make fun of the Creator of the Universe." (Appendix, Page 12-13)

Facts - Appellant's Brief* (Appendix Pg 160) - to combine with (Appendix Pgs 185-186- Argument)** to arrive at his thesis of anti-Semitism by the Plaintiff If at all, the events thus far will reveal that it is the Defendants who are guilty of "anti-Christian" prejudice The record will prove that inspite of this "anti-Christian" attitude, Plaintiff has not called the Jewish producers and distributors of the film (JMP) as "anti-Christian" Not merely Christians, but people of all persuasions have condemned the film, LTC for its offence:

> "Jews and Christians should have understood long before "THE LAST TEMPTATION OF CHRIST" that nearly everything that their religions hold sacred had been profaned in the movies The issue is not Christian censorship, it is Hollywood's nihilism." (Dennis Prager, a Jew and a KABC Radio

*: id at 3 in original submission

**: id at 17 in original submission

Commentator [See Appendix, Page 13]) "Human decency and ethical standards should keep all people respecting each others' religions." (Dr. Maher Hathout, Spokesman, Islamic Center, Southern California [See Appendix Page 15]).

*Anti-Semitism means hostility towards Jews as a religious or racial minority group, often accompanied by social, economic and political discrimination; opposition to Zionism; sympathy with opponents of the State of Israel

Therefore, Plaintiff submits that he has not said or done anything in this case to warrant the name "anti-Semitic" as defined above, and the learned counsel for the Defendants has not been quite

---

*: Webster's Third New International Dictionary; G&C Merriam Co, Publishers

right or gentle in r[illegible]g the Plaintiff as such

Also, Plaintiff submits that the comments of Defendants' Counsel that Plaintiff is thoroughly "unprofessional"** is unwarranted and betrays intolerance. Whatever allegations the Plaintiff has stated in his complaint or before this court are matters of fact or issues of fact. To not to say those would amount to supression of truth. Plaintiff does not command vast legal resources as the Defendants do, but this does not give them any right to insinuate the Plaintiff Pro Se without any basis. Of course, truth is inditing the Defendants, but this should not make them angry, because what has been

---

**: unprofessional conduct: that which violates ethical code of profession or such conduct which is unbecoming. (Blackstone's Legal Dictionary).

said is still very much in civilized language. Plaintiff as a private Attorney General is trying to do his best to represent his cause and that of many others in the pursuit of truth and justice, which the Defendants' counsel must appreciate and be considerate to the Plaintiff.

Plaintiff also disagrees that Defendants' have been conciliatory. Only if they had been so, they would not have continued to offend Christ and Christians in this Republic, by continuing to exhibit their profane film and extend its coverage through other media formats. Plaintiff and many others (Record Excerpts , pages 40 to 65) have pleaded in conciliatory terms before, to persuade the Defendants to see the truth and resist their outright profanity and slander of Christ - the Creator of this Universe and resultant injury to his people. But they didn't, and

they are still bent on inflicting insult and injury to the people of Christ. Continuing to profane and slander GOD; continuing to offend the Constitution of the Republic by offending the GOD of this Republic by exhibiting their film and knowing that it is false and libelous, as stated by the following people that represent a broad spectrum of Christian concern:

" ...damaging to the image of Christ. He cannot be made the object of low fantasies." (Franco Zeffirelli, Italian Film Director [See Appendix, page 18-19])

"Neither the label fiction nor the First Amendment, gives Universal the right to libel, slander and ridicule the most central figure in world history." (Jerry Falwell, Lynchberg, VA. [See Appendix, page 19])

"It's the most serious mistake a studio has made in decades." (Tim Pinland,

MCA's Marketing Expert for the film, LTC [See Appendix, page 20]:

"This is an intentional attack on Christianity." (Joseph Reilly, Moral Majority Leader[See Appendix,Page 23])

CONCLUSION

The trial of this case is crucial for the establishment of the constitutional principle enshrined in the Constitution, and the constitutional law that in a multi-racial and multi-religious society such as this Republic, one sect, however powerful it may be with media resources, cannot openly offend, insult and injure the religious sentiments, values and traditions of another, which would bring hostility and hatred between peoples, and which will violate the constitutional purpose of guarantee of equal rights and guarantee of peace and tranquility

But for some vehement protests and strong statements, there have been no militant or violent actions outwardly by people in this case, because this nation is a civilized nation, peopled largely by those of Christian persuasion, and they still practice Christian love in dealing with non-Christian assaults such as the Defendants have done by assassinating the character of Christ and thereby ridiculing his people. But the people's patience and non violence cannot be misunderstood as lack of feelings, because every such unjustified action, if not mitigated by justice, builds up a silent volcano of community tension among the offended, which may erupt anytime. It is therefore not in the interest of all peoples to set a precedent as the Defendants seek, that they have a right to exhibit the offensive film, LTC, violative of the constitutional principle of preserving inter-religious

and inter-racial harmony of the Republic. To illustrate this point further, Plaintiff submits that if the Defendants' prayer to affirm the District Court's order is granted, it will give open license to Hollywood to assassinate other religious characters, not only to make profit by the controversy it creates, but also to carry out their religious prejudice and vendetta. A libelous film on prophet Mohammed could be next in the line of character assassinations. But this could trigger international violence, affecting many peoples and may cause disturbances in this Republic also, because unlike Christians, the muslims may seek instant retribution based on the Old Testament law: "An eye for an eye and a tooth for a tooth." Another slanderous film on Jesus or Jesus family is also possible, slandering Deity and assassinating other biblical characters.

It is therefore also in the public interest that a line is drawn on this case, on the freedom of the media to assassinate falsely, the character of religious figures, and thereby insult the faith of many people. The law on this type of abuse has already been settled when the Supreme Court held in Chaplinsky v New Hampshire cited before, that such profane, libelous and insulting speech, as in the film, LTC are "no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."

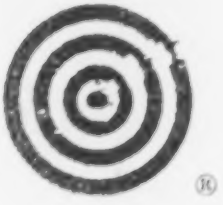
The Defendants' film, "THE LAST TEMPTATION OF CHRIST" that falsely assassinates the character of Christ, which is profane and libelous, which ridicules and injures the people of Christian faith in this Republic and other

nations of this world, is also no essential part of any exposition of ideas as a step to truth, and therefore, Plaintiff's appeal should be allowed and the case remanded for trial expeditiously so that justice is rendered for the benefit of the offended.

The judgment of the District Court should be reversed.

(VEDA NAYAK)
Plaintiff Pro Se
4770, W. Bellfort, Suite 285
Houston, TX 77035.
(713)684-6552.

THE URANTIA BOOK



COPYRIGHT 1955
URANTIA FOUNDATION

©-1955
URANTIA FOUNDATION

All rights reserved, including translation
in the United States of America, as well as in Canada
and other countries of
the International Copyright Union.
All rights reserved under Pan-American Copyright Conventions
and under the Universal Copyright Convention.

URANTIA FOUNDATION

CHICAGO, ILLINOIS

1955

-272-

The Parts of the Book

PART I

THE CENTRAL AND SUPERUNIVERSES

Sponsored by a Uversa Corps of Superuniverse Personalities
acting by authority of the Orvonton
Ancients of Days

PART II

THE LOCAL UNIVERSE

Sponsored by a Nebadon Corps of Local Universe
Personalities acting by authority of
Gabriel of Salvington

PART III

THE HISTORY OF URANTIA

These papers were sponsored by a Corps of Local Universe
Personalities acting by authority of
Gabriel of Salvington

PART IV

THE LIFE AND TEACHINGS OF JESUS

This group of papers was sponsored by a commission of twelve
Urantia midwayers acting under the supervision of
a Melchizedek revelatory director.
The basis of this narrative was supplied by a secondary
midwayer who was onetime assigned to the superhuman
watchcare of the Apostle Andrew.

The Titles of the Papers

PART I. THE CENTRAL AND SUPERUNIVERSES

Paper		Author	Page
	Foreword	Divine Counselor	1
1.	The Universal Father	Divine Counselor	21
2.	The Nature of God	Divine Counselor	33
3.	The Attributes of God	Divine Counselor	44
4.	God's Relation to the Universe	Divine Counselor	54
5.	God's Relation to the Individual	Divine Counselor	62
6.	The Eternal Son	Divine Counselor	73
7.	Relation of the Eternal Son to the Universe	Divine Counselor	81
8.	The Infinite Spirit	Divine Counselor	90
9.	Relation of the Infinite Spirit to the Universe	Divine Counselor	98
10.	The Paradise Trinity	Universal Censor	108
11.	The Eternal Isle of Paradise	Perfector of Wisdom	118
12.	The Universe of Universes	Perfector of Wisdom	128
13.	The Sacred Spheres of Paradise	Perfector of Wisdom	143
14.	The Central and Divine Universe	Perfector of Wisdom	152
15.	The Seven Superuniverses	Universal Censor	164
16.	The Seven Master Spirits	Universal Censor	184
17.	The Seven Supreme Spirit Groups	Divine Counselor	197
18.	The Supreme Trinity Personalities	Divine Counselor	207
19.	The Co-ordinate Trinity-Origin Beings	Divine Counselor	214
20.	The Paradise Sons of God	Perfector of Wisdom	223
21.	The Paradise Creator Sons	Perfector of Wisdom	234
22.	The Trinitized Sons of God	Mighty Messenger	243
23.	The Solitary Messengers	Divine Counselor	256
24.	Higher Personalities of the Infinite Spirit	Divine Counselor	264
25.	The Messenger Hosts of Space	One High in Authority	273
26.	Ministering Spirits of the Central Universe	Perfector of Wisdom	285
27.	Ministry of the Primary Supernaphim	Perfector of Wisdom	298
28.	Ministering Spirits of the Superuniverses	Mighty Messenger	306

PAPER	AUTHOR	PAGE
29. The Universe Power Directors	Universal Censor	319
30. Personalities of the Grand Universe	Mighty Messenger	330
31. The Corps of the Finality	Divine Counselor and One Without Name and Number	345

PART II. THE LOCAL UNIVERSE

32. The Evolution of Local Universes	Mighty Messenger	357
33. Administration of the Local Universe	Chief of Archangels	366
34. The Local Universe Mother Spirit	Mighty Messenger	374
35. The Local Universe Sons of God	Chief of Archangels	384
36. The Life Carriers	Vorondadek Son	396
37. Personalities of the Local Universe	Brilliant Evening Star	406
38. Ministering Spirits of the Local Universe	Melchizedek	418
39. The Seraphic Hosts	Melchizedek	426
40. The Ascending Sons of God	Mighty Messenger	443
41. Physical Aspects of the Local Universe	Archangel	455
42. Energy—Mind and Matter	Mighty Messenger	467
43. The Constellations	Malavatia Melchizedek	485
44. The Celestial Artisans	Archangel	497
45. The Local System Administration	Melchizedek	509
46. The Local System Headquarters	Archangel	519
47. The Seven Mansion Worlds	Brilliant Evening Star	530
48. The Morontia Life	Archangel	541
49. The Inhabited Worlds	Melchizedek	559
50. The Planetary Princes	Secondary Lanonandek	572
51. The Planetary Adams	Secondary Lanonandek	580
52. Planetary Mortal Epochs	Mighty Messenger	589
53. The Lucifer Rebellion	Manovandet Melchizedek	601
54. Problems of the Lucifer Rebellion	Mighty Messenger	613
55. The Spheres of Light and Life	Mighty Messenger	621
56. Universal Unity	Mighty Messenger and Machiventa Melchizedek	637

PART III. THE HISTORY OF URANTIA

57. The Origin of Urantia	Life Carrier	651
58. Life Establishment on Urantia	Life Carrier	664
59. The Marine-Life Era on Urantia	Life Carrier	672

PAPER	AUTHOR	PAGE
60. Urantia during the Early Land-Life Era	Life Carrier	685
61. The Mammalian Era on Urantia	Life Carrier	693
62. The Dawn Races of Early Man	Life Carrier	703
63. The First Human Family	Life Carrier	711
64. The Evolutionary Races of Color	Life Carrier	718
65. The Overcontrol of Evolution	Life Carrier	730
66. The Planetary Prince of Urantia	Melchizedek	741
67. The Planetary Rebellion	Melchizedek	754
68. The Dawn of Civilization	Melchizedek	763
69. Primitive Human Institutions	Melchizedek	772
70. The Evolution of Human Government	Melchizedek	783
71. Development of the State	Melchizedek	800
72. Government on a Neighboring Planet	Melchizedek	808
73. The Garden of Eden	Solonia	821
74. Adam and Eve	Solonia	828
75. The Default of Adam and Eve	Solonia	839
76. The Second Garden	Solonia	847
77. The Midway Creatures	Archangel	855
78. The Violet Race after the Days of Adam	Archangel	868
79. Andite Expansion in the Orient	Archangel	878
80. Andite Expansion in the Occident	Archangel	889
81. Development of Modern Civilization	Archangel	900
82. The Evolution of Marriage	Chief of Seraphim	913
83. The Marriage Institution	Chief of Seraphim	922
84. Marriage and Family Life	Chief of Seraphim	931
85. The Origins of Worship	Brilliant Evening Star	944
86. Early Evolution of Religion	Brilliant Evening Star	950
87. The Ghost Cults	Brilliant Evening Star	958
88. Fetishes, Charms, and Magic	Brilliant Evening Star	967
89. Sin, Sacrifice, and Atonement	Brilliant Evening Star	974
90. Shamanism—Medicine Men and Priests	Melchizedek	986
91. The Evolution of Prayer	Chief of Midwayers	994
92. The Later Evolution of Religion	Melchizedek	1003
93. Machiventa Melchizedek	Melchizedek	1014
94. The Melchizedek Teachings in the Orient	Melchizedek	1027
95. The Melchizedek Teachings in the Levant	Melchizedek	1042
96. Yahweh—God of the Hebrews	Melchizedek	1052

PAPER	AUTHOR	PAGE
97. Evolution of the God Concept among the Hebrews	Melchizedek	1062
98. The Melchizedek Teachings in the Occident	Melchizedek	1077
99. Social Problems of Religion	Melchizedek	1086
100. Religion in Human Experience	Melchizedek	1094
101. The Real Nature of Religion	Melchizedek	1104
102. The Foundations of Religious Faith	Melchizedek	1118
103. The Reality of Religious Experience	Melchizedek	1129
104. Growth of the Trinity Concept	Melchizedek	1143
105. Deity and Reality	Melchizedek	1152
106. Universe Levels of Reality	Melchizedek	1162
107. Origin and Nature of Thought Adjusters	Solitary Messenger	1176
108. Mission and Ministry of Thought Adjusters	Solitary Messenger	1185
109. Relation of Adjusters to Universe Creatures	Solitary Messenger	1195
110. Relation of Adjusters to Individual Mortals	Solitary Messenger	1203
111. The Adjuster and the Soul	Solitary Messenger	1215
112. Personality Survival	Solitary Messenger	1225
113. The Seraphic Guardians of Destiny	Chief of Seraphim	1241
114. Seraphic Planetary Government	Chief of Seraphim	1250
115. The Supreme Being	Mighty Messenger	1260
116. The Almighty Supreme	Mighty Messenger	1268
117. God the Supreme	Mighty Messenger	1278
118. Supreme and Ultimate—Time and Space	Mighty Messenger	1294
119. The Bestowals of Christ Michael	Chief of Evening Stars	1308

PART IV. THE LIFE AND TEACHINGS OF JESUS

120. The Bestowal of Michael on Urantia	Mantutia Melchizedek	1323
121. The Times of Michael's Bestowal	Midwayer Commission	1332
122. Birth and Infancy of Jesus	Midwayer Commission	1344
123. The Early Childhood of Jesus	Midwayer Commission	1355
124. The Later Childhood of Jesus	Midwayer Commission	1366
125. Jesus at Jerusalem	Midwayer Commission	1377
126. The Two Crucial Years	Midwayer Commission	1386
127. The Adolescent Years	Midwayer Commission	1395
128. Jesus' Early Manhood	Midwayer Commission	1407
129. The Later Adult Life of Jesus	Midwayer Commission	1419

PAPER	AUTHOR	PAGE
130. On the Way to Rome	Midwayer Commission	1427
131. The World's Religions	Midwayer Commission	1442
132. The Sojourn at Rome	Midwayer Commission	1455
133. The Return from Rome	Midwayer Commission	1468
134. The Transition Years	Midwayer Commission	1483
135. John the Baptist	Midwayer Commission	1496
136. Baptism and the Forty Days	Midwayer Commission	1509
137. Tarrying Time in Galilee	Midwayer Commission	1524
138. Training the Kingdom's Messengers	Midwayer Commission	1538
139. The Twelve Apostles	Midwayer Commission	1548
140. The Ordination of the Twelve	Midwayer Commission	1568
141. Beginning the Public Work	Midwayer Commission	1587
142. The Passover at Jerusalem	Midwayer Commission	1596
143. Going Through Samaria	Midwayer Commission	1607
144. At Gilboa and in the Decapolis	Midwayer Commission	1617
145. Four Eventful Days at Capernaum	Midwayer Commission	1628
146. First Preaching Tour of Galilee	Midwayer Commission	1637
147. The Interlude Visit to Jerusalem	Midwayer Commission	1647
148. Training Evangelists at Bethsaida	Midwayer Commission	1657
149. The Second Preaching Tour	Midwayer Commission	1668
150. The Third Preaching Tour	Midwayer Commission	1678
151. Tarrying and Teaching by the Seaside	Midwayer Commission	1688
152. Events Leading up to the Capernaum Crisis	Midwayer Commission	1698
153. The Crisis at Capernaum	Midwayer Commission	1707
154. Last Days at Capernaum	Midwayer Commission	1717
155. Fleeing Through Northern Galilee	Midwayer Commission	1725
156. The Sojourn at Tyre and Sidon	Midwayer Commission	1734
157. At Caesarea-Philippi	Midwayer Commission	1743
158. The Mount of Transfiguration	Midwayer Commission	1752
159. The Decapolis Tour	Midwayer Commission	1762
160. Rodan of Alexandria	Midwayer Commission	1772
161. Further Discussions with Rodan	Midwayer Commission	1783
162. At the Feast of Tabernacles	Midwayer Commission	1788
163. Ordination of the Seventy at Magadan	Midwayer Commission	1800
164. At the Feast of Dedication	Midwayer Commission	1809
165. The Perean Mission Begins	Midwayer Commission	1817
166. Last Visit to Northern Perea	Midwayer Commission	1825
167. The Visit to Philadelphia	Midwayer Commission	1833
168. The Resurrection of Lazarus	Midwayer Commission	1842
169. Last Teaching at Pella	Midwayer Commission	1850
170. The Kingdom of Heaven	Midwayer Commission	1858

PAPER		AUTHOR	PAGE
171.	On the Way to Jerusalem	Midwayer Commission	1867
172.	Going into Jerusalem	Midwayer Commission	1878
173.	Monday in Jerusalem	Midwayer Commission	1888
174.	Tuesday Morning in the Temple	Midwayer Commission	1897
175.	The Last Temple Discourse	Midwayer Commission	1905
176.	Tuesday Evening on Mount Olivet	Midwayer Commission	1912
177.	Wednesday, The Rest Day	Midwayer Commission	1920
178.	Last Day at the Camp	Midwayer Commission	1929
179.	The Last Supper	Midwayer Commission	1936
180.	The Farewell Discourse	Midwayer Commission	1944
181.	Final Admonitions and Warnings	Midwayer Commission	1953
182.	In Gethsemane	Midwayer Commission	1963
183.	The Betrayal and Arrest of Jesus	Midwayer Commission	1971
184.	Before the Sanhedrin Court	Midwayer Commission	1978
185.	The Trial Before Pilate	Midwayer Commission	1987
186.	Just Before the Crucifixion	Midwayer Commission	1997
187.	The Crucifixion	Midwayer Commission	2004
188.	The Time of the Tomb	Midwayer Commission	2012
189.	The Resurrection	Midwayer Commission	2020
190.	Morontia Appearances of Jesus	Midwayer Commission	2029
191.	Appearances to the Apostles and Other Leaders	Midwayer Commission	2037
192.	Appearances in Galilee	Midwayer Commission	2045
193.	Final Appearances and Ascension	Midwayer Commission	2052
194.	Bestowal of the Spirit of Truth	Midwayer Commission	2059
195.	After Pentecost	Midwayer Commission	2069
196.	The Faith of Jesus	Midwayer Commission	2087

PART IV

The Life and Teachings of Jesus

PAPER 120

THE BESTOWAL OF MICHAEL ON URANTIA

ASSIGNED by Gabriel to supervise the restatement of the life of Michael when on Urantia and in the likeness of mortal flesh, I, the Melchizedek director of the revelatory commission intrusted with this task, am authorized to present this narrative of certain events which immediately preceded the Creator Son's arrival on Urantia to embark upon the terminal phase of his universe bestowal experience. To live such identical lives as he imposes upon the intelligent beings of his own creation, thus to bestow himself in the likeness of his various orders of created beings, is a part of the price which every Creator Son must pay for the full and supreme sovereignty of his self-made universe of things and beings.

Before the events I am about to delineate, Michael of Nebadon had bestowed himself six times after the similitude of six differing orders of his diverse creation of intelligent beings. Then he prepared to descend upon Urantia in the likeness of mortal flesh, the lowest order of his intelligent will creatures, and, as such a human of the material realm, to execute the final act in the drama of the acquirement of universe sovereignty in accordance with the mandates of the divine Paradise Rulers of the universe of universes.

In the course of each of these preceding bestowals Michael not only acquired the finite experience of one group of his created beings, but he also acquired an essential experience in Paradise co-operation which would, in and of itself, further contribute to constituting him the sovereign of his self-made universe. At any moment throughout all past local universe time, Michael could have asserted personal sovereignty as a Creator Son and as a Creator Son could have ruled his universe after the manner of his own choosing. In such an event, Immanuel and the associated Paradise Sons would have taken leave of the universe. But Michael did not wish to rule Nebadon merely in his own isolated right, as a Creator Son. He desired to ascend through actual experience in co-operative subordination to the Paradise Trinity to that high place in universe status where he would become qualified to rule his universe and administer its affairs with that

perfection of insight and wisdom of execution which will sometime be characteristic of the exalted rule of the Supreme Being. He aspired not to perfection of rule as a Creator Son but to supremacy of administration as the embodiment of the universe wisdom and the divine experience of the Supreme Being.

Michael, therefore, had a double purpose in the making of these seven bestowals upon the various orders of his universe creatures: First, he was completing the required experience in creature understanding which is demanded of all Creator Sons before they assume complete sovereignty. At any time a Creator Son may rule his universe in his own right, but he can rule as the supreme representative of the Paradise Trinity only after passing through the seven universe-creature bestowals. Second, he was aspiring to the privilege of representing the maximum authority of the Paradise Trinity which can be exercised in the direct and personal administration of a local universe. Accordingly, did Michael, during the experience of each of his universe bestowals, successfully and acceptably voluntarily subordinate himself to the variously constituted wills of the diverse associations of the persons of the Paradise Trinity. That is, on the first bestowal he was subject to the combined will of the Father, Son, and Spirit; on the second bestowal to the will of the Father and the Son; on the third bestowal to the will of the Father and the Spirit; on the fourth bestowal to the will of the Son and the Spirit; on the fifth bestowal to the will of the Infinite Spirit; on the sixth bestowal to the will of the Eternal Son; and during the seventh and final bestowal, on Urantia, to the will of the Universal Father.

Michael, therefore, combines in his personal sovereignty the divine will of the sevenfold phases of the universal Creators with the understanding experience of his local universe creatures. Thus has his administration become representative of the greatest possible power and authority although divested of all arbitrary assumptions. His power is unlimited since it is derived from experienced association with the Paradise Deities; his authority is unquestioned inasmuch as it was acquired through actual experience in the likeness of universe creatures; his sovereignty is supreme since it embodies at one and the same time the sevenfold viewpoint of Paradise Deity with the creature viewpoint of time and space.

Having determined the time of his final bestowal and having selected the planet whereon this extraordinary event would take place, Michael held the usual prebestowal conference with Gabriel and then presented himself before his elder brother and Paradise counselor, Immanuel. All powers of universe administration which had not previously been conferred upon Gabriel, Michael now assigned to the custody of Immanuel. And just before Michael's departure for the Urantia incarnation, Immanuel, in accepting the custody of the universe during the time of the Urantia bestowal, proceeded to impart the bestowal counsel which would serve as the incarnation guide for Michael when he would presently grow up on Urantia as a mortal of the realm.

In this connection it should be borne in mind that Michael had elected to execute this bestowal in the likeness of mortal flesh, subject to the will of the Paradise Father. The Creator Son required instructions from no one in order to effect this incarnation for the sole purpose of achieving universe sovereignty.

but he had embarked upon a program of the revelation of the Supreme which involved co-operative functioning with the diverse wills of the Paradise Deities. Thus his sovereignty, when finally and personally acquired, would actually be all-inclusive of the sevenfold will of Deity as it culminates in the Supreme. He had, therefore, six times previously been instructed by the personal representatives of the various Paradise Deities and associations thereof; and now he was instructed by the Union of Days, ambassador of the Paradise Trinity to the local universe of Nebadon, acting on behalf of the Universal Father.

There were immediate advantages and tremendous compensations resultant from the willingness of this mighty Creator Son once more voluntarily to subordinate himself to the will of the Paradise Deities, this time to that of the Universal Father. By this decision to effect such associative subordination, Michael would experience in this incarnation, not only the nature of mortal man, but also the will of the Paradise Father of all. And further, he could enter upon this unique bestowal with the complete assurance, not only that Immanuel would exercise the full authority of the Paradise Father in the administration of his universe during his absence on the Urantia bestowal, but also with the comforting knowledge that the Ancients of Days of the superuniverse had decreed the safety of his realm throughout the entire bestowal period.

And this was the setting of the momentous occasion when Immanuel presented the seventh bestowal commission. And from this prebestowal charge of Immanuel to the universe ruler who subsequently became Jesus of Nazareth (Christ Michael) on Urantia, I am permitted to present the following excerpts:

1. THE SEVENTH BESTOWAL COMMISSION

"My Creator brother, I am about to witness your seventh and final universe bestowal. Most faithfully and perfectly have you executed the six previous commissions, and I entertain no thought but that you will be equally triumphant on this, your terminal sovereignty bestowal. Heretofore you have appeared on your bestowal spheres as a fully developed being of the order of your choosing. Now you are about to appear upon Urantia, the disordered and disturbed planet of your choice, not as a fully developed mortal, but as a helpless babe. This, my comrade, will be a new and untried experience for you. You are about to pay the full price of bestowal and to experience the complete enlightenment of the incarnation of a Creator in the likeness of a creature.

"Throughout each of your former bestowals you have voluntarily chosen to subject yourself to the will of the three Paradise Deities and their divine interassociations. Of the seven phases of the will of the Supreme you have in your previous bestowals been subject to all but the personal will of your Paradise Father. Now that you have elected to be wholly subject to your Father's will throughout your seventh bestowal, I, as the personal representative of our Father, assume the unqualified jurisdiction of your universe for the time of your incarnation.

"In entering upon the Urantia bestowal, you have voluntarily divested your-

self of all extraplanetary support and special assistance such as might be rendered by any creature of your own creation. As your created sons of Nebadon are wholly dependent upon you for safe conduct throughout their universe careers, so now must you become wholly and unreservedly dependent upon your Paradise Father for safe conduct throughout the unrevealed vicissitudes of your ensuing mortal career. And when you shall have finished this bestowal experience, you will know in very truth the full meaning and the rich significance of that faith-trust which you so unvaryingly require all your creatures to master as a part of their intimate relationship with you as their local universe Creator and Father.

"Throughout your Urantia bestowal you need be concerned with but one thing, the unbroken communion between you and your Paradise Father; and it will be by the perfection of such a relationship that the world of your bestowal, even all the universe of your creation, will behold a new and more understandable revelation of your Father and my Father, the Universal Father of all. Your concern, therefore, has only to do with your personal life on Urantia. I will be fully and efficiently responsible for the security and unbroken administration of your universe from the moment of your voluntary relinquishment of authority until you return to us as Universe Sovereign, confirmed by Paradise, and receive back from my hands, not the vicegerent authority which you now surrender to me, but, instead, the supreme power over, and jurisdiction of, your universe.

"And that you may know with assurance that I am empowered to do all that I am now promising (knowing full well that I am the assurance of all Paradise for the faithful performance of my word), I announce to you that there has just been communicated to me a mandate of the Ancients of Days on Uversa which will prevent all spiritual jeopardy in Nebadon throughout the period of your voluntary bestowal. From the moment you surrender consciousness, upon the beginning of the mortal incarnation, until you return to us as supreme and unconditional sovereign of this universe of your own creation and organization, nothing of serious import can happen in all Nebadon. In this interim of your incarnation, I hold the orders of the Ancients of Days which unqualifiedly mandate the instantaneous and automatic extinction of any being guilty of rebellion or presuming to instigate insurrection in the universe of Nebadon while you are absent on this bestowal. My brother, in view of the authority of Paradise inherent in my presence and augmented by the judicial mandate of Uversa, your universe and all its loyal creatures will be secure during your bestowal. You may proceed upon your mission with but a single thought—the enhanced revelation of our Father to the intelligent beings of your universe.

"As in each of your previous bestowals, I would remind you that I am recipient of your universe jurisdiction as brother-trustee. I exercise all authority and wield all power in your name. I function as would our Paradise Father and in accordance with your explicit request that I thus act in your stead. And such being the fact, all this delegated authority is yours again to exercise at any moment you may see fit to requisition its return. Your bestowal is, throughout, wholly voluntary. As a mortal incarnate in the realm you are without celestial endowments, but all your relinquished power may be had at any time you may choose to reinvest yourself with universe authority. If you should choose to reinstate yourself in power and authority, remember, it will be wholly for *personal* reasons since I am the living and supreme pledge whose presence and

promise guarantee the safe administration of your universe in accordance with your Father's will. Rebellion, such as has three times occurred in Nebadon, cannot occur during your absence from Salvington on this bestowal. For the period of the Urantia bestowal the Ancients of Days have decreed that rebellion in Nebadon shall be invested with the automatic seed of its own annihilation.

"As long as you are absent on this final and extraordinary bestowal, I pledge (with Gabriel's co-operation) the faithful administration of your universe; and as I commission you to undertake this ministry of divine revelation and to undergo this experience of perfected human understanding, I act in behalf of my Father and your Father and offer you the following counsel, which should guide you in the living of your earth life as you become progressively self-conscious regarding the divine mission of your continued sojourn in the flesh:

2. THE BESTOWAL LIMITATIONS

"1. In accordance with the usages and in conformity with the technique of Sonarington—in compliance with the mandates of the Eternal Son of Paradise—I have provided in every way for your immediate entrance upon this mortal bestowal in harmony with the plans formulated by you and placed in my keeping by Gabriel. You will grow up on Urantia as a child of the realm, complete your human education—all the while subject to the will of your Paradise Father—live your life on Urantia as you have determined, terminate your planetary sojourn, and prepare for ascension to your Father to receive from him the supreme sovereignty of your universe.

"2. Apart from your earth mission and your universe revelation, but incidental to both, I counsel that you assume, after you are sufficiently self-conscious of your divine identity, the additional task of technically terminating the Lucifer rebellion in the system of Satania, and that you do all this as the *Son of Man;* thus, as a mortal creature of the realm, in weakness made powerful by faith-submission to the will of your Father, I suggest that you graciously achieve all you have repeatedly declined arbitrarily to accomplish by power and might when you were so endowed at the time of the inception of this sinful and unjustified rebellion. I would regard it as a fitting climax of your mortal bestowal if you should return to us as the Son of Man, Planetary Prince of Urantia, as well as the Son of God, supreme sovereign of your universe. As a mortal man, the lowest type of intelligent creature in Nebadon, meet and adjudicate the blasphemous pretensions of Caligastia and Lucifer and, in your assumed humble estate, forever end the shameful misrepresentations of these fallen children of light. Having steadfastly declined to discredit these rebels through the exercise of your creator prerogatives, now it would be fitting that you should, in the likeness of the lowest creatures of your creation, wrest dominion from the hands of these fallen Sons; and so would your whole local universe in all fairness clearly and forever recognize the justice of your doing in the role of mortal flesh those things which mercy admonished you not to do by the power of arbitrary authority. And having thus by your bestowal established the possibility of the sovereignty of the Supreme in Nebadon, you will in effect have brought to a close the unadjudicated affairs of all preceding insurrections, notwithstanding the greater or lesser time lag involved in the realization of this achievement. By this act the pending dissen-

sions of your universe will be in substance liquidated. And with the subsequent endowment of supreme sovereignty over your universe, similar challenges to your authority can never recur in any part of your great personal creation.

"3. When you have succeeded in terminating the Urantia secession, as you undoubtedly will, I counsel you to accept from Gabriel the conference of the title of 'Planetary Prince of Urantia' as the eternal recognition by your universe of your final bestowal experience; and that you further do any and all things, consistent with the purport of your bestowal, to atone for the sorrow and confusion brought upon Urantia by the Caligastia betrayal and the subsequent Adamic default.

"4. In accordance with your request, Gabriel and all concerned will cooperate with you in the expressed desire to end your Urantia bestowal with the pronouncement of a dispensational judgment of the realm, accompanied by the termination of an age, the resurrection of the sleeping mortal survivors, and the establishment of the dispensation of the bestowed Spirit of Truth.

"5. As concerns the planet of your bestowal and the immediate generation of men living thereon at the time of your mortal sojourn, I counsel you to function largely in the role of a teacher. Give attention, first, to the liberation and inspiration of man's spiritual nature. Next, illuminate the darkened human intellect, heal the souls of men, and emancipate their minds from age-old fears. And then, in accordance with your mortal wisdom, minister to the physical well-being and material comfort of your brothers in the flesh. Live the ideal religious life for the inspiration and edification of all your universe.

"6. On the planet of your bestowal, set rebellion-segregated man spiritually free. On Urantia, make a further contribution to the sovereignty of the Supreme, thus extending the establishment of this sovereignty throughout the broad domains of your personal creation. In this, your material bestowal in the likeness of the flesh, you are about to experience the final enlightenment of a time-space Creator, the dual experience of working within the nature of man with the will of your Paradise Father. In your temporal life the will of the finite creature and the will of the infinite Creator are to become as one, even as they are also uniting in the evolving Deity of the Supreme Being. Pour out upon the planet of your bestowal the Spirit of Truth and thus make all normal mortals on that isolated sphere immediately and fully accessible to the ministry of the segregated presence of our Paradise Father, the Thought Adjusters of the realms.

"7. In all that you may perform on the world of your bestowal, bear constantly in mind that you are living a life for the instruction and edification of all your universe. You are *bestowing* this life of mortal incarnation upon Urantia, but you are to *live* such a life for the spiritual inspiration of every human and superhuman intelligence that has lived, now exists, or may yet live on every inhabited world which has formed, now forms, or may yet form a part of the vast galaxy of your administrative domain. Your earth life in the likeness of mortal flesh shall not be so lived as to constitute an *example* for the mortals of Urantia in the days of your earthly sojourn nor for any subsequent generation

of human beings on Urantia or on any other world. Rather shall your life in the flesh on Urantia be the *inspiration* for all lives upon all Nebadon worlds throughout all generations in the ages to come.

"8. Your great mission to be realized and experienced in the mortal incarnation is embraced in your decision to live a life wholeheartedly motivated to do the will of your Paradise Father, thus to *reveal God*, your Father, in the flesh and especially to the creatures of the flesh. At the same time you will also *interpret*, with a new enhancement, our Father, to the supermortal beings of all Nebadon. Equally with this ministry of new revelation and augmented interpretation of the Paradise Father to the human and the superhuman type of mind, you will also so function as to make a new revelation of man to God. Exhibit in your one short life in the flesh, as it has never before been seen in all Nebadon, the transcendent possibilities attainable by a God-knowing human during the short career of mortal existence, and make a new and illuminating *interpretation* of man and the vicissitudes of his planetary life to all the superhuman intelligences of all Nebadon, and for all time. You are to go down to Urantia in the likeness of mortal flesh, and living as a man in your day and generation, you will so function as to show your entire universe the ideal of perfected technique in the supreme engagement of the affairs of your vast creation: The achievement of God seeking man and finding him and the phenomenon of man seeking God and finding him; and doing all of this to mutual satisfaction and doing it during one short lifetime in the flesh.

"9. I caution you ever to bear in mind that, while in fact you are to become an ordinary human of the realm, in potential you will remain a Creator Son of the Paradise Father. Throughout this incarnation, although you will live and act as a Son of Man, the creative attributes of your personal divinity will follow you from Salvington to Urantia. It will ever be within your power-of-will to terminate the incarnation at any moment subsequent to the arrival of your Thought Adjuster. Prior to the arrival and reception of the Adjuster I will vouch for your personality integrity. But subsequent to the arrival of your Adjuster and concomitant with your progressive recognition of the nature and import of your bestowal mission, you should refrain from the formulation of any superhuman will-to-attainment, achievement, or power in view of the fact that your creator prerogatives will remain associated with your mortal personality because of the inseparability of these attributes from your personal presence. But no superhuman repercussions will attend your earthly career apart from the will of the Paradise Father unless you should, by an act of conscious and deliberate will, make an undivided decision which would terminate in whole-personality choice.

3. FURTHER COUNSEL AND ADVICE

"And now, my brother, in taking leave of you as you prepare to depart for Urantia and after counseling you regarding the general conduct of your bestowal, allow me to present certain advices that have been arrived at in consultation with Gabriel, and which concern minor phases of your mortal life. We further

suggest:

"1. That, in the pursuit of the ideal of your mortal earth life, you also give some attention to the realization and exemplification of some things practical and immediately helpful to your fellow men.

"2. As concerns family relationships, give precedence to the accepted customs of family life as you find them established in the day and generation of your bestowal. Live your family and community life in accordance with the practices of the people among whom you have elected to appear.

"3. In your relations to the social order we advise that you confine your efforts largely to spiritual regeneration and intellectual emancipation. Avoid all entanglements with the economic structure and the political commitments of your day. More especially devote yourself to living the ideal religious life on Urantia.

"4. Under no circumstances and not even in the least detail, should you interfere with the normal and orderly progressive evolution of the Urantia races. But this prohibition must not be interpreted as limiting your efforts to leave behind you on Urantia an enduring and improved system of *positive religious ethics*. As a dispensational Son you are granted certain privileges pertaining to the advancement of the *spiritual* and *religious* status of the world peoples.

"5. As you may see fit, you are to identify yourself with existing religious and spiritual movements as they may be found on Urantia but in every possible manner seek to avoid the formal establishment of an organized cult, a crystallized religion, or a segregated ethical grouping of mortal beings. Your life and teachings are to become the common heritage of all religions and all peoples.

"6. To the end that you may not unnecessarily contribute to the creation of subsequent stereotyped systems of Urantia religious beliefs or other types of nonprogressive religious loyalties, we advise you still further: Leave no writings behind you on the planet. Refrain from all writing upon permanent materials: enjoin your associates to make no images or other likenesses of yourself in the flesh. See that nothing potentially idolatrous is left on the planet at the time of your departure.

"7. While you will live the normal and average social life of the planet, being a normal individual of the male sex, you will probably not enter the marriage relation, which relation would be wholly honorable and consistent with your bestowal; but I must remind you that one of the incarnation mandates of Sonarington forbids the leaving of human offspring behind on any planet by a bestowal Son of Paradise origin.

"8. In all other details of your oncoming bestowal we would commit you to the leading of the indwelling Adjuster, the teaching of the ever-present divine spirit of human guidance, and the reason-judgment of your expanding human mind of hereditary endowment. Such an association of creature and Creator attributes will enable you to live for us the perfect life of man on the planetary spheres, not necessarily perfect as regarded by any one man in any one generation on any one world (much less on Urantia) but wholly and supremely replete

as evaluated on the more highly perfected and perfecting worlds of your far-flung universe.

"And now, may your Father and my Father, who has ever sustained us in all past performances, guide and sustain you and be with you from the moment you leave us and achieve the surrender of your consciousness of personality, throughout your gradual return to recognition of your divine identity incarnate in human form, and then on through the whole of your bestowal experience on Urantia until your deliverance from the flesh and your ascension to our Father's right hand of sovereignty. When I shall again see you on Salvington, we shall welcome your return to us as the supreme and unconditional sovereign of this universe of your own making, serving, and completed understanding.

"In your stead I now reign. I assume jurisdiction of all Nebadon as acting sovereign during the interim of your seventh and mortal bestowal on Urantia. And to you, Gabriel, I commit the safekeeping of the Son of Man about-to-be until he shall presently and in power and glory be returned to me as the Son of Man and the Son of God. And, Gabriel, I am your sovereign until Michael thus returns."

***

Then, immediately, in the presence of all Salvington assembled, Michael removed himself from our midst, and we saw him no more in his accustomed place.

COMPARISON OF THE CHARACTER OF JESUS FROM NEW TESTAMENT, KING JAMES VERSION AS OPPOSED TO THE FILM "THE LAST TEMPTATION OF CHRIST".

(Extracts of material taken from the original complaint and exhibits I to VI)

NEW TESTAMENT	DEFENDANTS'FILM
1 JESUS, THE SON OF GOD, HEALER AND GOOD SHEPHERD	JESUS, THE TRAITOR
In Him(Christ) was life and the life was the light of men (John 1:4)	Judas meets Jesus in his Nazareth carpenter's shop where he is making crosses
And said unto the woman, Now we believe, not because of thy saying: for we have heard him ourselves and know that this is indeed the Christ, the Savior of the world. (John 4:42)	Judas mocks Jesus and says, " ... Aren't you ashamed? The carpenters from Cana and Capernaum refuse to make a cross for a Zealot"
I am the good shepherd, the good shepherd giveth his life for the sheep (John 10:11)	Jesus is silent and wants to be left alone
And it came to pass, as he went to Jerusalem, that he passed through the midst of Samaria and Galilee And as he entered into a certain village, there met him ten men that were lepers,which stood afar off: and they lifted up their voices, and said, Jesus, have mercy on us. And when he saw them, he said unto them, Go shew yourselves	Judas pursues Jesus to intimidate him. Jesus resists the insult

NEW TESTAMENT	DEFENDANTS'FILM
unto the priests. And it came to pass, that, as they went, they were cleansed. (Luke 17:12-14). And Jesus went forth and saw a great multitude, and was moved with compassion toward them and he healed their sick. (Luke 17:12-14) Then Jesus called his disciples unto him and said, I have compassion on the multitude, because they continue with me now three days, and have nothing to eat: and I will not send them, away fasting, lest they faint in the way (Matthew 15.32)	silently Finally disgusted, Judas calls a crowd of people and humiliates Jesus with: "Come here, look at the traitor. Look at the cross maker. The crowd jeers, at Jesus,but he resumes his work, making a cross for the next victim to be crucified by the Romans
2 JESUS KNEW HIS MISSION AND IS IN PERFECT UNION WITH HIS FATHER	JESUS DOESN'T EVEN KNOW HIS MISSION. HE FIGHTS GOD THE FATHER
I am the good shepherd shepherd and know my sheep and am known of mine. As the Father knoweth me, even so know I the Father, and I lay down my life for the sheep (John 10:14-15) For as the Father hath life in himself, so hath he given to the Son to have life in himself. And hath given him authority to execute judgment also	After Jesus helped the Romans to crucify his countrymen,he is depressed and discouraged. He is in a state of fits and explains his aversion to God's command "God

NEW TESTAMENT	DEFENDANTS' FILM
because he is the Son of Man...I can of mine own self do nothing: as HEAR I judge and my judgment is just: because I seek not mine own will but the will of the Father which hath sent me. (John 5: 26,27 and 30) For I came down from heaven not to do mine own will, but the will of him that sent me. (John 6:38)	loves me, I know he loves me. I want him to stop, I can't take it anymore, the voices and the pain. I want him to hate me. I fight it. make crosses so he will hate me. I want him to find somebody else. I want to crutify every one of his messiahs
3. JESUS DELIVERS MAGDALENE AND FORGIVES HER SINS AS WELL AS OTHERS' SINS	JESUS ASKS FORGIVENESS FOR MORAL TURPITUDE.
And certain women, which had been healed of evil spirits and infirmities, Mary called Magdalene, out of whom went seven devils, (Luke 8:2) And he said unto her, Thy sins are forgiven. And they sat at meat with him began to say within themselves, Who is this that forgiveth sins also? And he said to the woman, Thy faith hath saved thee; go in peace." (Luke:7:48-50) And, behold, they	Jesus comes to visit Mary Magdalene in her brothel when she is in the midst of her sexual orgies. He waits for her to finish, and speaks to her, his childhood

NEW TESTAMENT	DEFENDANTS' FILM
of the palsy, lying on a bed: and Jesus seeing their faith said unto the sick of the palsy; Son, be of good cheer; thy sins be forgiven thee. And behold, certain of the scribes said within themselves, This man blasphemeth. And Jesus, knowing their thoughts said, Wherefore think ye evil in your hearts? For whether is easier, to say Thy sins be forgiven thee; or to say, Arise and walk? But that ye may know that the Son of Man hath power on earth to forgive sins, (then saith he to the sick of the palsy) Arise, take up thy bed, and go unto thine house. And he arose, and departed to his house. But when the multitudes saw it, they marvelled, and glorified God, which had given such power unto men. (Matthew (9:2-8)	who ended up in prostitution apparently because he did not marry her. Jesus implores her: "I want you to forgive me. I've done too many bad things..." Magdalene doesn't want to forgive Jesus for deserting her.
4 CHRIST THE DELIVERER AND THE SPIRIT OF TRUTH	CHRIST POSSESSED BY LUCIFER AND IS A LIAR
And so all Israel shall be saved: as it is written, There shall come out of Sion the Deliverer, and shall turn away ungodliness from Jacob. (Romans 11:26) And there was in their synagogue a man with an	Jesus is staying in an ascetic community. He is talking to a man as they walk along a

NEW TESTAMENT	DEFENDANTS' FILM
unclean spirit; and he cried out, saying, Let us alone; what have we to do with thee, thou Jesus of Nazareth? art thou come to destroy us? I know thee who thou art, the Holy One of God. And Jesus rebuked him, saying, Hold thy peace, and come out of him. And when the unclean spirit had torn him, and cried with a loud voice, he came out of him. And they were all amazed, insomuch that they questioned among themselves saying, what thing is this? what new doctrine is this? for with authority commandeth he even the unclean spirits, and they do obey him(Mark 1:23-27) And the word was made flesh and dwelt among us, and we beheld his glory as of the only begotten of the Father, full of grace and truth (John 1:14) Jesus saith unto him, I am the way, the truth and the life: no man cometh unto the Father, but by me (John 14:6)	cliff, and confesses to him: "I am a liar, I am a hypocrite, I am afraid of everything... Lucifer is inside me. He says to me, You are not the son of King David. You are the Son of Man and more The Son of God. And more than that, God.
5 JESUS THE SAVIOR OF SINNERS, THE SINLESS, THE HOLY ONE	JESUS CONFESSES HE IS A SINNER
Forasmuch as ye know that ye were not redeemed with corruptible things, as silver and gold, from your	In an ascetic community in the wilderness, Jesus

vain conversation received by tradition from your fathers; but with the precious blood of Christ, as of a lamb without blemish and without spot.
(1 Peter 1:18-19)

But ye denied the Holy One and the Just, and desired a murderer to be granted unto you.
(Acts 3:14)

And every man that hath this hope in him, purifieth himself, even as he is pure
(1 John 3:3)

By so much was Jesus was made a surety of a better testament and they truly were many priests, because they were not suffered to continue by reason of death:but this man, because he continueth ever, has an unchangeable priesthood. Wherefore he is able also to save them to the uttermost that come unto God by him, seeing he ever liveth to make intercession for them. For such an high priest became us, who is holy, harmless, undefiled, separate from sinners, and made higher than the heavens
(Hebrews 7:22-26)

For he hath made him to

talks to a man:"You think it's a blessing to know what God wants? I'll tell you what he wants; he wants to push me over (He is implying that God wants him to die.)Can't you see what's inside of me? My sins
MAN:
We all sin.
JESUS
Not my sins. I'm a liar, I'm a hypocrite, I'm afraid of everything. I don't ever tell the truth, I don't have the courage. When I see a woman, I blush and look away. I want to, but I don't take her-for God- and that makes me proud. And then my pride (ruins) Magdalene. I

NEW TESTAMENT	DEFENDANTS'FILM
be sin for us, who knew no sin; that we might be made the righteousness of God in him. (2 Corinthians 5:21)	don't steal, I don't fight, not because I'm afraid. I want to rebel against you, against everything, against God, but I'm afraid. You want to know who my mother and father is? Fear! You look inside me and that's all you'll find
6	JESUS FULFILLS HIS LUST.
6. There is nothing in the Gospels that Jesus had any sexual relationship with Mary Magdalene or with any other woman. Any such relationship would have been inconsistent with his creatorship and will amount to incest with his own mortal children. Jesus loved all women as his children, but there was no carnal relationship with anyone. The relationship of Mary Magdalene with Jesus was one of respect and reverence for it was he who delivered her from demonic possession. This	Jesus is seduced by an angel to walk away from the cross where he hangs in Golgotha (It's in his mind and a dream.) He then marries Mary Magdalene, a weakness that he had confessed before, a sexual desire of the flesh that he can

NEW TESTAMENT	DEFENDANTS' FILM
respect is clearly portrayed in the Gospels at the momentous event of his resurrection: Jesus saith unto her, Mary. She turned herself, and saith unto him, Rabboni; which is to say, Master. Jesus saith unto her, Touch me not; for I am not yet ascended to my Father: but go to my brethren and say unto them, I ascend unto my Father and your Father; and to my God, and your God Mary Magdalene came and told the disciples that she had seen the Lord and that he had spoken these things to her. (John 20:16-18)	no more resist, and has sex with her, body to body, skin to skin. Which is watched by a child angel of ten years old, and Jesus allows the child to watch the sexual encounter.

---

7 JESUS DEFINES ADULTERY	JESUS COMMITS ADULTERY WITH MARY AND MARTHA, THE LAZARUS SISTERS.
This obscenity of adultery by Jesus Christ, the Son of God with the Lazarus sisters has no basis in the Gospels, and is an outright defamatory falsehood. It has been shown above by eye witness accounts of the sinless nature of Christ. And on adultery, Jesus has enunciated the principle that one sins even when he lusts in his own heart to commit adultery:	Mary Magdalene dies and inspired by the fallen angel, Jesus marries Mary and has children with her. One day, Mary is out, and he is alone with Martha. Again tempted by the angel,

NEW TESTAMENT	DEFENDANTS' FILM
Matthew 5:28. Therefore, the portrayal of Jesus committing adultery in his mind, in a dream, would show that he was obsessed with the idea of adultery and by the standards of Jesus' teaching, would amount to committing adultery.	Jesus goes into the house to make love to Martha, and thus commit adultery. Thereafter, he has children with both women, leading a polygamous life.

EXTRACTS OF COMPARISON OF OBSCENITY IN THE BOOK "TOUCHING" AND ACTUAL SESSION.

(Bindrim v. Mitchell, App., 155 Cal. Rptr. 29 at Page 34)

Pg	Excerpts from "Touching"	Transcript of Actual Session
126-27	The minister was) us how the experience had gotten him further back to God, And all the time he was getting closer to God, he was being moved further away from his wife, who didn't understand, she didn't understand at all. She didn't realize	"I've come a little way." "I'd like to know about your wife. She hasn't been a marathon? "No." "Isn't interested? Has no need?" I don't-she did finally say that she would like to go to a standard sensitivity training session somewhere. She
126-12	what was coming out of the sensitivity training sessions he was conducting in the church. He felt, he,more than felt, he knew, that if she didn't begin coming to the nude marathons and try to grasp what it was all about, the	would be-I can't imagine her in a nude marathon. She can't imagine it." "Why?" "Neither could I when I first came." "Yeh. She might I don't know." "It certainly

Pg.	EXCERPTS FROM "TOUCHING"	TRANSCRIPT OF ACTUAL SESSION
	marriage would be over. "You better bring her to the next marathon." Simon said. I've been trying," said the minister. "I only pray she comes." "You better do better than pray," said Simon. "You better grab her by the cunt and drag her here." "I can only try." "You can do better than try, Alex. You can grab her by the cunt, "A man with that kind of power, whether it comes from God or from his own manly strength, strength he doesn't know he has, can drag his wife here by the fucking cunt." "I know," Alex said softly. "I know."	would be a good idea for two reasons: one, the minor one is that you are involved here, and if she were in the same thing, and you could come to some of the couple ones, it would be helpful to you. But more than that, almost a definite recipe for breaking up a a marriage is for one person to go into growth groups and sense change and grow...." "I know that." "Boy they sure don't want that, and once they're clear they don't need that mate anymore, and they are not very patient." "But it is true, the more I get open the more the walls are built between us. And it's becoming a fairly intelligent place, a fairly open place, doing moderate sensitivity eyeballing stuff with the kids. I use some of these

PG	EXCERPTS FROM "TOUCHING"	TRANSCRIPT OF ACTUAL SESSION
		techniques teaching out class work." "Becoming more involved?" "Yeh, involved at the same time that I am more separated from. It's a paradox again, isn't it?" "Mmm."

DEFINITION OF CHRISTIANITY:

Extracts from Bouvier's LAW DICTIONARY and Concise Encyclopedia (1914) by John Bouvier. (Third revision, [being the fourth edition], Volume 1: Pg 485-486)

CHRISTIANITY:

The religion established by Jesus Christ.

Christianity has been judicially declared to be a part of the common law of Pennsylvania; Updegraph v. Com., 11 S.& R. (Pa.) 394; Guardians of the Poor v. Greene, 5 Binn. (Pa.) 555; (cited in U.S. v. Laws, 163 U.S. 263, 16 Sup. Ct. 998, 41 L.Ed 151); See Zeisweiss v. James, 63 Pa. 465, 3 Am. Rep. 558; of New York, People v. Ruggles, 8 Johns. 291, 5 Am Dec. 335; of Connecticut, 2 Swift, System 321; of Delaware, State v. Chandler, 2 Harr. 553; of Massachusetts, 7 Dane, Abr. c. 219, a. 2, 19. See Com. v. Kneeland, 20 Pick. (Mass.) 206. To write or speak contemptuously and maliciously against it is an indictable offence; Odg. Lib. &Sl. 450; Cooper, Libel 59, 114. See 5 Jur. 529; People v. Ruggles, 8 Johns. (N.Y.) 290, 5 Am. Dec. 335; Com. v. Kneeland, 20 Pick. (Mass.) 206. "This is a religious people, not Christianity with an established church and tithes and spiritual courts; but Christianity with liberty of conscience to all men." U.S. v. Laws, 163 U. S. 263, 16 Sup. Ct. 998, 41 L.Ed. 151.

Archbishop Whately, in his preface to the Elements of Rhetoric, says, "It has been declared, by the highest legal authorities, that 'Christianity is part of the law of the land,' and consequently, anyone who impugns it is liable to prosecution. What is the precise meaning of the above legal maxim I do not profess to determine, having never met with anyone

who could explain it to me; but evidently the mere circumstance that we have religion by law established does not of itself imply the illegality of arguing that religion." It seems difficult, says an accomplished writer (Townsend, St. Tr. vol. 11 p. 389), to render more intelligable a maxim which has perplexed so learned a critic. Christitianity was pronounced to be a part of the common law, in contradistinction to the ecclesiastical law, for the purpose of proving that the temporal courts, as well as the courts spiritual, had jurisdiction over offences against it. Blasphemies against God and religion are properly cognizable by the law of the land, as they disturb the foundations on which the peace and good order of society rest, root up the principle of positive laws and penal restraints, and remove the chief sanction for truth, without which no question of property could be decided and no criminal brought to justice. Christianity is part of the common law, as its root and branch, its majesty and pillar - as much a component part of that law as the government and maintenance of social order. The inference of the learned archbishop seems scarcely accurate, that all who impugn this part of the law must be prosecuted. It does not follow, because Christianity is part of the law of England, that every one who impugns it is liable to prosecution. The manner and motives for the assault are the true tests and criteria. Scoffing, flippant, railing comments, not serious arguments, are considered offences at common law, and justly punished, because they shock the pious no less than deprave the ignorant and young. The meaning of Chief Justice Hale cannot be expressed more plainly than in his own words. An information was exhibited against one Taylor, for uttering blasphemous expressions too horrible to repeat. Hale, C. J., observed that "such

kind of wicked,blasphemous words were not only an offence to God and religion, but a crime against the laws, state, and government, and therefore punishable in the court of King's Bench. For, to say religion is a cheat, is to subvert all those obligations whereby civil society is preserved; that Christianity is part of the laws of England, and to reproach the Christian religion is to speak in subversion of the law." Ventr. 293. To remove all possibility of further doubt, the English commissioners on criminal law, in their sixth report, p. 83 (1841), have thus clearly explained their sense of the celebrated passage: "The meaning of the expression used by Lord Hale, that 'Christianity was parcel of the laws of England,' though often cited in subsequent cases, has, we think, been much misunderstood. It appears to us that the expression can only mean either that, as a great part of the secruities of our legal system consist of judicial and official oaths sworn upon the Gospels, Christianity is closely interwoven with our municipal law, or that the laws of England, like all municipal laws of a Christian country, must, upon principles of general jurisprudence,be subservient to the positive rules of Christinity. In this sense, Christianity may justly said to be incorporated with the law of England, so as to form parcel of it; and it was probably in this sense that Lord Hale intended the expression should be understood. At all events, in whatever sense the expression is to be understood, it does not appear to us to supply any reason in favor of the rule that arguments may not be used against it; for it is not criminal to speak or write either against the common law of England, generally, or against particular portions of it, provided it not be done in such a manner as to endanger the public peace by exciting forcible resistance; so that the

statement that Christianity is parcel of the law of England, which has been so often urged in justification of laws against blasphemy, however true it may be as a general proposition, certainly furnishes no additional argument for the propriety of such laws." If blasphemy mean a railing accusation, then it is, and ought to be, forbidden; Heard, Lib. & Sl. Section 338. See Vidal v. Girard, 2 How. (U.S.) 127, 197, 11 L.Ed. 205; Updegraph v. Com. 11 S. & R. (Pa.) 394; People v. Ruggles, 8 Johns. (N.Y.) 290, 5 Am. Dec. 335; Shover v. State, 10 Ark. 259; State v. Chandler, 2 Harr. (Del.) 553, 569; 21 Am. L. Reg. 201, 333, 537. See Cooley, Const. Lim.

Christianity is a part of the common law; the existence of God has always been assumed in English law. See J.B. Thayer, Leg. Essays 325.

DEFINITION OF THE BIBLE:

(Source: The Columbia Viking Desk Encyclopedia : Third Edition,(1968),Pg 113 William Bridgewater, Editor in Chief).

....Traditional Christian view is that the Bible was written under the guidance of God and is, therfore, all true, literally or under the veil of allegory. Interpretation of the Bible is one of the chief points of difference between Protestantism which believes that individuals have the right to interpret the Bible for themselves, and Roman Catholicsm, which teaches that individuals may read the Bible only in accordance with interpretation of the church. Among extant manuscripts of the Bible are Codex Vaticanus (Greek, 4th cent.), at the Vatican; Codex Sinaiticus (Greek, 4th cent.) and Codex Alexandrinus (Greek, 5th cent.), at the British Mus.; and Codex Bezae (Greek and Latin, 6th cent.) at Cambridge, England. First great translation of the whole Bible into Latin was the Vulgate of St. Jerome. The Bible, with Latin text, was the first book to be printed on the press of Johann GUTENBERG. In England there were from Anglo-Saxon times vernacular versions of parts of the Bible, mostly the four Gospels and the Psalms. Great names in the history of the English Bible are: John Wyclif (d. 1384), whose name is borne by two translated versions; William Tyndale (d. 1536), whose New Testament (1525-26) was the first English translation to be printed; Miles Coverdale (d. 1569), who was responsible for the Great Bible (1539), the first to be issued by the crown (in the name of Henry VIII). Greatest of all English translations was the Authorized (AV) or King James version (1611), made by a committee of churchmen led by Lancelot Andrewes. The Douay, or Rheims-Douay, Version was published by Roman Catholic

scholars at Rheims (New Testament, 1582) and Douai, France (Old Testament, 1610), since extensively revised. In the 19th cent., the Authorized Version was revised from the original tongues by the church of England and appeared as the English Revised Version and American Revised Version (both: RV). English translations begun in the 20th cent. include the Revised Standard Version (Protestant; pub 1952) and the American Roman Catholic Confraternity of Christian Doctrine. Translations have been important in the histories of other literature besides English (e.g., Luther's translation).